THE FREEMAN

IDEAS ON LIBERTY

Fairness and Justice: Process vs. Results

When Voting Makes No Sense

Capitalism and the Jews

John D. Rockefeller and the Oil Industry

OCTOBER 1988

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THE FOUNDATION FOR ECONOMIC EDUCATION, INC.
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PERSPECTIVE

Reprise

Twenty years ago, at the time of another presidential election, I wrote my first little essay that appeared in *The Freeman*. It was called, "Each on His Own White Charger." (October 1968)

The theme was simple: The challenges of the time were to be solved by each of us acting morally and responsibly, not by some "political savior" on a white horse magically appearing in our midst with cure-alls.

Though two decades have passed, the challenge for believers in the market economy and limited government remains the same.

There are those who will argue that the cause of individual freedom has made progress. I would politely disagree. Our affairs private and public remain too much at the whim of congressmen, judges, bureaucrats, and a host of others. And, for every deregulation of business that has occurred, new burdens can easily be cited.

If anything, with the continued inflation of the money supply, and the passage of more and more laws, the task before us is as difficult as ever.

Each person living the most exemplary life he or she can continues as the best means for pursuing the ideals and the benefits of the free market and limited government.

We know we are surrounded by statists, socialists, and technocrats of varying tones. We know, too, we are forever being urged to compromise the virtues of individuality and free enterprise in the name of societal goodness, an alleged fairer distribution of goods and services, and one-worldness.

The pity of these pleas is that those who make them disregard the uncoerced market as the place where the fulfillment of what they seek is most likely to occur. They prefer the use of the police power, the State, in the achievement of their ends.

Mankind must have a code by which to live. The code existed before the creation of any current government. But the dos and don'ts of the Commandments and the Golden Rule do

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not satisfy those who would create an improved (?) society by forcing everyone into their own molds at gunpoint.

What would happen to society and to the world if people truly respected one another, if people recognized that despite all efforts to educate and to civilize there always will be the unfit and the antisocial?

The harmony, the caring society and world we seek, are not to be found through the use of force in the peaceful activities of people whether it be in the arts, education, or the manufacture of patty cakes.

Salvation begins and ends with each of us as individuals. No one can instill it except ourselves. We can and do have teachers to help us understand and see, but the adoption of the final product depends upon ourselves. That has not changed in twenty years, nor will it in twenty times twenty more.

—EARL ZARBIN

Tokyo's Farmers

About 120 million people now live in Japan, 25.5 million of them in the huge Tokyo-Yokohama megalopolis. Because of soaring land prices, most Tokyo residents live in tiny homes or apartments, developers are resorting to constructing shopping malls underground, and one Japanese company is even planning floating office buildings to moor in Tokyo Bay.

Yet Yukio Noguchi, professor of public finance at Hitotsubashi University, argues that Tokyo does not suffer from an insufficient amount of land in absolute terms. (*Look Japan,* February 1988) Japan's population density, in fact, is similar to that of southern New England. Then why the soaring land prices?

As Japan's population has grown, its cities have expanded and swallowed up surrounding territory. But the farmers' rice paddies have often been encircled and left intact. According to Robert Chapman Wood, writing in the November 16, 1987, issue of *Forbes,* "Tokyo farms can be worth $230 and more per square foot (commercial land on Park Avenue in New York can command $65 per square foot), and their value has been rising at up to 50 percent per year." But few suburban farmers sell. Why should they? They are taxed only on the value of their land for agricultural purposes, while they face enormous capital gains taxes if they sell. And if they can't make a profit in the suburbs, local governments often give them a special subsidy.

Some rice paddies have been converted to housing in recent years, but nowhere nearly enough to dent the housing shortage. Only 47 per cent of the land within metropolitan Tokyo has been developed. And 30 per cent of metropolitan Tokyo is still used for farmland.

As Wood points out, Japan "maintains a maze of regulations and tax benefits that attempt to protect farms, tenants, rickety old urban houses, and small stores from the modern world." Because of these regulations and taxes, "Tokyo's residents live in minuscule apartments and houses."

Japanese rice farmers enjoy a privileged status because urban Japanese "want to live the life of a farmer vicariously." But they must pay the price—as taxpayers, in the form of subsidies; and as consumers, in the form of crowded living space.

—BBG

The Value of the Market

The central value of the free market is that it is inextricably intertwined with human freedom, both spiritually and materially. What the past 50 years of the world socialist experiment have demonstrated beyond reasonable doubt is that if human beings are to be free in spirit and of mind, they must first be free to make their individual market choices. Deprived of the latter, they are automatically deprived of the former. Granted freedom of spirit, they demand freedom of the marketplace.

—CHARLES D. SNELLING

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THE FREEMAN
IDEAS ON LIBERTY

Fairness and Justice: Process vs. Results

by Walter E. Williams

In pursuit of what Friedrich A. Hayek calls "the mirage of social justice," Americans have turned their faces against liberal values and are rapidly embracing the immorality of socialism. In an effort to achieve social justice, decent, well-meaning people who hold little brief for despotism are unwittingly laying its infrastructure.

Throughout American history we have been recognized as the beacon and hope of the world's freedom-cherishing people. This reputation was not earned because somehow Americans are congenitally morally superior people. To the contrary, our cultural-ethnic-religious mosaic consists of descendants of French, English, German, Irish, Jews, Greeks, Italians, Japanese, Chinese, Africans, Protestants, Catholics, and a host of other divisions of people who have been slaughtering one another in their homelands for centuries.

Therefore, it is not so much the nature of America's people that accounts for our heritage of freedom as it is the rules of the game we have chosen to govern our relationships. At the heart of these rules are classical liberal values such as: (1) individual freedom and mutually beneficial voluntary exchange, (2) freedom of enterprise in the form of self-regulating markets without government intervention, (3) private property rights, freedom of contract and rule of law, and (4) limited government.

While no society has ever achieved all of these liberal values, they were once the dominant theme of American values. In today's America, the liberal values of John Locke, Adam Smith, Thomas Jefferson, and George Mason are held in contempt, and in practice have been eroded by unrestrained political intervention. The liberal values suffering the greatest assault are those calling for rule of law and limited government.

Rule of law (or rule by *legis,* the Latin term for law) means that government must be bound by fixed and predictable rules and all people are governed by the same laws. Today's America is increasingly becoming rule by privileges, deriving from the Latin, *privilegium,* for private law. Limited government and a republican form of government, as envisaged by our Constitution, have little meaning in practice as our lives become more and more controlled by some level of government, most often the federal government.

The equal protection clause of the Fourteenth Amendment has come to mean one thing for "protected" minorities and something different for everyone else. Duties and responsibilities imposed on one class of citizens, say younger people, are forgiven for another class of people, say older people. These and many other actions, including special laws for the handi-

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capped and special tax treatment for some individuals, are examples of rule by privileges where a person's status governs the application of the law.

Decisions formerly seen as those of state and local governments such as schooling, highway construction, and public health are now influenced and/or controlled at the Federal level. Privacy rights formerly taken for granted are now surrendered to distant government bureaucracies such as the Internal Revenue Service, the Social Security Administration, and others. While these government encroachments may seem inconsequential to today's citizen, the American who died at the turn of the century would be shocked at our loss of liberty and privacy. Perhaps more insidious is that most of us do not realize our loss of liberty or privacy until we come to claim a presumed right (such as being able to leave the country privately with more than $10,000 in currency or other negotiable instruments) and find it gone.

Why the Loss of Liberty?

A serious thinker can list many causes for the diminution of liberty in America; however, at bedrock lies the strong American sense of doing good and guaranteeing justice and fairness to our fellow man. In the pursuit of noble goals, with great misunderstanding, we are standing justice and fairness on their heads. While some Americans use these stated goals to accomplish personal hidden agendas, most Americans, with the best of intentions, just have not given much thought to what the policies they support do to justice and fairness.

Part of the problem is that results or outcomes of human relationships are often seen as criteria for the presence or absence of justice and fairness. Outcomes frequently used as barometers of justice and fairness are: race and sex statistics on income and unemployment, income distribution in general, occupational distribution, wealth ownership, and other measures of socioeconomic status.

Despite the broad acceptance of outcomes as measures of justice and fairness by the public, courts, and politicians, we must ask whether outcomes can provide us with any meaningful clues about fairness or justice. Let us examine this issue using a simplified construct—the game of poker. The specific question we ask is: can we tell whether a poker game is fair by having information only about the game's outcome? Suppose we know that Harry, John, and Mary play poker regularly. Harry wins 75 per cent of the time while John and Mary win 15 and 10 per cent of the time respectively.

Knowing only this outcome of the game, we ask: is the game fair? The evidence before us is that Harry has 75 per cent of the winnings distribution while John and Mary share the balance. Was the game fair? Was there "poker justice"? Would an equal distribution (33.3 each) be fairer? What is the standard for judging what outcome is fair, just, or equitable?

It is clear that determining a standard for a fair distribution of winnings would be quite elusive if not impossible. The only way we can have any hope of ascertaining the fairness of the game is to examine instead the *process* of the game. In an examination of process, we would ask such questions as: (1) was participation in the game voluntary or not, (2) were there neutral rules, and (3) did every player play by those rules?

Harry's winning 75 per cent of the time is no indicator of the game's fairness. Harry might be an astute player or his high winnings could be the result of cheating. Similarly, if the winnings distribution had been 33 per cent each, we still would not know whether the game was fair. John and Mary might be just as good players as Harry, or they might have joined to extort part of Harry's winnings in the name of equality, or John and Mary could be cheating. Information on the distribution of winnings allows us to make no unambiguous statements about the fairness of the game.

The rules of any game seek to establish and restrain the nature of the relationships among the participants. Among the rules of poker: you cannot look at your opponent's cards; cards must be dealt from the top of the deck; a full house beats a pair; and so on. In basketball, football, baseball, and other sports, there are agreed-upon rules governing the conduct of the game. In some games, there are referees to insure that participants play by the rules and to assess penalties on those who violate the rules.

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We should carefully note that the purpose of the rules of the game is *not* that of determining the winner of the game. Similarly the role of the referee is not that of choosing game winners; nor is it his role to be a member of either team. His role is simply that of an impartial observer enforcing neutral game rules. Were referees to play the game, or if the game rules *ex ante* determined the winner, there would be common agreement that the game was not fair.

Our lives are games in the sense that we test our skills, courage, and endurance in the pursuit of pleasurable things for ourselves, families, and our fellow man. The payoff (winnings) is frequently measured in income, wealth, and other measures of socioeconomic status. Knowing one person's income is $200,000 a year while another's is $12,000 tells us little about fairness. The difference in income could be a result of pillage and plunder, one person's being forcefully prevented from realizing his earnings potential, or one person's simply being more productive than his counterpart. All these possibilities, and I am sure others, are consistent with income differences.

Effort Rewarded

In free markets, characterized by voluntary relationships, differences in wealth and income, for the most part, reflect one's effort and capacity to serve his fellow man. Rich people like Michael Jackson and Pavarotti give immense pleasure to many people. Similarly, producers of Barbie Dolls, antibiotics, or computers satisfy the desires of their fellow men who reward them with dollars. Other people satisfy their fellow man in less dramatic, but no less important, ways as grocery clerks, farmers, and taxi drivers.

Therefore, in a society of voluntary relationships income is not "distributed"; it is earned —earned by individual efforts to please one's fellow man. One person is not poor because another is rich. The fact that people earn income reflects the morality of free markets. It is their ability and willingness to please their fellow man that enables them to have a claim on the productive assets of the society.

In this sense, the market is a strong disciplinarian. It commands that, if for any reason, you do not please your fellow man, you have no contractual claim on the goods society produces. Of course, there are people who cannot or will not please their fellow man. Only charity and gifts permit them to have access to the goods produced by society. However, man has found other ways whereby he can avoid pleasing his fellow man and still have claims on society's goods, namely through theft, intimidation, and coercion. Practices such as looting and plunder have all too frequently characterized human history. A more recently perfected technique is through legalized theft where people exploit the coercive powers of government to take the property of their fellow man. Examples of the latter are the multi-billion dollar programs created by the United States Congress where the property of one American is confiscated and given to another American to whom it does not belong.

Various forms of pillage, plunder, and looting (where government allows one American to live at the expense of another American) violate neutral, fair rules of the game of life. Occupation and business regulation are other examples of unfair, non-neutral rules of the game, where the government in effect tells one citizen that he will be granted a right or opportunity that will be denied another citizen. Much of government activity consists of privilege-granting where a person's status determines what laws he will be subjected to and how these laws shall be applied.

Indeed there is considerable unfairness in American society, but it cannot be detected, much less eliminated, by constant focus on outcomes. Instead, we need to focus our energies on examination of process and the rules of the game. Pursuit of the mirage of social justice, seen as being determined by outcomes, leads to gross human rights abuse. History is filled with episodes where social goals were set, and whenever the rights of individuals interfered with the attainment of the goals, those rights were brutally suppressed by an all-powerful state. □

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When Voting Makes No Sense

by Tibor R. Machan

This is the season for voting. We will be urged to go out and vote, never mind for whom or for what. Voting will be praised by public-spirited types across this great land.

There never seems to be an end to people who love wagging their fingers at us. Election year is another opportunity for them to indulge in this vigorous exercise. But are they right? Should we really feel so bad if we do not vote? Is it so irresponsible to stay home or go fishing on election day?

Let me answer this somewhat personally. As a naturalized citizen I always vote. Even when I spent a couple of Novembers working in Europe, I wrote for ballots and made sure they got back in time. I am a dutiful voter, indeed.

But it takes its toll. For me to have any confidence in my repeated political acts, I have had to become a full-time political person.

In my life politics is virtually everything. I am certainly a man without hobbies. I barely have time for my family and I am able to keep up with my profession only because it largely revolves around studying politics.

For someone to have any reasonable confidence of being a good voter—to do this task in good conscience—one has to prepare for voting in a relentless, demanding fashion. In my case this has meant seeking out the best political principles and then voting in the way that most effectively supports these principles. This requires extensive study—not just reading the newspaper, following the candidates' records, examining the various referenda, knowing the persons likely to accompany the candidate to office, and so on. Most importantly it requires keeping one's mind on some very big questions, such as "What is justice?" "Is freedom more important than security?" "What is best for a human community?" "How far should democracy go in a country?" Can you imagine someone being a competent, conscientious voter who has not given thought to these issues? I cannot.

But there is more to our problem. The task of voting in an era of omnipresent government is unbelievably demanding. It is doubtful that one per cent of those who go to the polls have made a real effort to understand all the issues. How could they? It is certainly not their fault that in order to be politically savvy one needs to be almost omniscient.

The people we send to office are embarking on missions best undertaken by the Almighty. They have to decide on issues ranging from what fish need to be preserved to where to build the next interstate highway; from how best to fight AIDS to whether surrogate motherhood for pay should be permitted; from whether a judge is suited to sit on the Supreme Court to how much subsidy money the tobacco farmers of North Carolina should receive; from how many helicopters Angolan freedom fighters need to how to control trading on the New York Stock Exchange. And this only at the Federal level!

Because government is now involved in so many things, and politicians have to make so many complicated decisions, every politician

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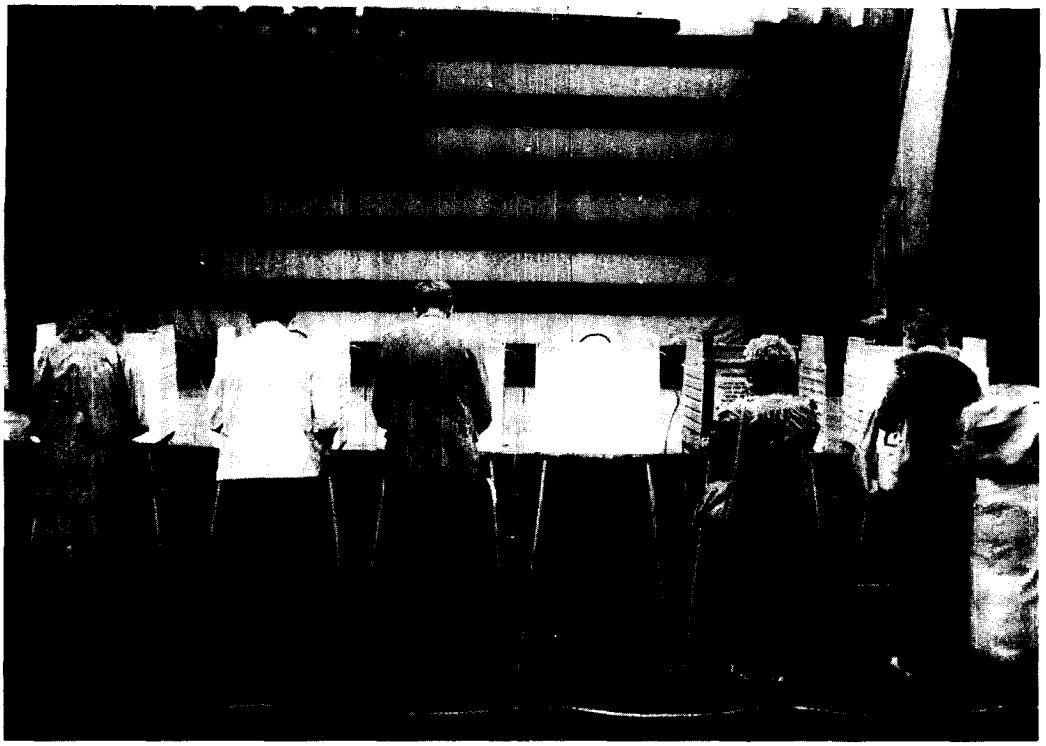

WIDE WORLD

must possess an incredible array of knowledge, talent, and skills. There is no job description that fits such people—if we can find them. Can anyone feel totally confident about voting for one over the other?

The Scope of Government

One reason I suspect the Founding Fathers and framers tried to build a society with a limited government wasn't that they worried about the size of government. It's the scope of government that matters. They meant for all the people to participate in the affairs of government, so they wanted those affairs to be relatively specific. That is one very good reason to limit the power of government. In the market we can judge the baker, restaurateur, dentist, carpet cleaner, or banker, and, if we deem their work inferior, we can go elsewhere. In government, however, we have to cast a vote for people whom we cannot judge, since we have little idea about what they will do; and even if we have some inkling, we have few skills to judge them at their tasks.

So if you stay home on election day, don't feel guilty. The guilty ones are those who have turned our governments into busybody institutions that have acquired tasks and powers no one can keep an eye or mind on, let alone evaluate. Unlimited government is incompatible with representative democracy. □

The Political Process

IDEAS ON LIBERTY

Legislatures, laws, courts, constabularies, bureaucracies can do little more than exert a mild influence along lines consistent with the current consensus. The consensus moves this way or that in accord with its content; it rises when filled with truths and virtues and sinks when bogged down with nonsense. So, what I can do about the government depends upon the quality of the ideas I feed into the consensus. This defines both my limitation and my potentiality.

—LEONARD E. READ

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Capitalism and the Jews

by Milton Friedman

Editors' Note: *"Capitalism and the Jews" was originally presented as a lecture before the Mont Pelerin Society in 1972. It subsequently was published in England and Canada and appears here without significant revision.*

I. PARADOX EXPOSED

Postwar Collectivism in the West

Immediately after the Second World War, the prospects for freedom looked bleak. The war had produced an unprecedented centralization of economic controls in every belligerent country. The "socialists of all parties," to whom F. A. Hayek dedicated his brilliant polemic *The Road to Serfdom,* seemed well on their way to establishing central planning as the standard for peace as for war, pointing triumphantly to the full employment that had been produced by inflationary war finance as decisive evidence for the superiority of central planning over capitalist chaos. And, if that occurred, there seemed little hope of halting the slide toward full-fledged collectivism.

Fortunately, those fears have not been realized over the intervening years. On the contrary, government inefficiency together with the clear conflict between central planning and individual freedom served to check the trend towards collectivism. In Britain, in France, in the U.S., war-time controls were dismantled and market mechanisms were given greater play. In West Germany, the courageous action of Ludwig Erhard in ending controls in the summer of 1948 triggered the so-called German economic miracle. Even behind the Iron Curtain, Yugoslavia broke with its Soviet masters, rejected detailed control of the economy, and treated us to the surprising vision of creeping capitalism in an avowedly communist society.

Unfortunately, these checks to collectivism did not check the growth of government. Rather, they diverted that growth from central direction of the economy to central control of the distribution of the product, to the wholesale transfer of income from some members of the community to others.

The Collectivist Trend in Ideas

Much more important and much more relevant to our society, the favorable trends in the world of affairs were not paralleled in the world of ideas. For a time, there was an intellectual reaction against governmental intervention. Some of us optimistically envisioned a resurgence of liberal values, the emergence of a new trend of opinion favorable to a free society. But any such resurgence was spotty and short-lived. Intellectual opinion in the West has again started moving in a collectivist direction. Many of the slogans are individualist—participatory democracy, down with the establishment, "do your own thing," "power to the people." But the slogans are accompanied by attacks on pri-

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vate property and free enterprise—the only institutions capable of achieving the individualistic objectives. They are accompanied by a demand for centralized political power—but with "good" people instead of "bad" people exercising the power.

West Germany is perhaps the most striking example of the paradoxical developments in the world of affairs and the world of ideas. Who could ask for a better comparison of two sets of institutions than East and West Germany have provided in the past two decades? Here are people of the same blood, the same civilization, the same level of technical skill and knowledge, torn asunder by the accidents of warfare. The one adopts central direction; the other adopts a social market economy. Which has to build a wall to keep its citizens from leaving? On which side of the wall is there tyranny and misery; on which side, freedom and affluence? Yet despite this dramatic demonstration, despite the Nazi experience—which alone might be expected to immunize a society for a century against collectivism—the intellectual climate in Germany, I am told, is overwhelmingly collectivist—in the schools, the universities, the mass media alike.

This paradox is a major challenge to those of us who believe in freedom. Why have we been so unsuccessful in persuading intellectuals everywhere of our views? Our opponents would give the obvious answer: because we are wrong and they are right. Until we can answer them and ourselves in some other way, we cannot reject their answer, we cannot be sure we are right. And until we find a satisfactory answer, we are not likely to succeed in changing the climate of opinion.

The Jews as an Example of the Paradox

My aim here is not to give a ready answer—for I have none. My aim is rather to examine a particular case of paradox—the attitude of Jews toward capitalism. Two propositions can be readily demonstrated: first, the Jews owe an enormous debt to free enterprise and competitive capitalism; second, for at least the past century the Jews have been consistently opposed to capitalism and have done much on an ideological level to undermine it. How can these propositions be reconciled?

I was led to examine this paradox partly for obvious personal reasons. Some of us are accustomed to being members of an intellectual minority, to being accused by fellow intellectuals of being reactionaries or apologists or just plain nuts. But those of us who are also Jewish are even more embattled, being regarded not only as intellectual deviants but also as traitors to a supposed cultural and national tradition.

This personal interest was reinforced by the hope that study of this special case might offer a clue to the general paradox—typified by West Germany where Jews play a minor role. Unfortunately, that hope has not been fulfilled. I believe that I can explain to a very large extent the anti-capitalist tendency among Jews, but the most important elements of the explanation are peculiar to the special case and cannot readily be generalized. I trust that others will be more successful.

II. THE BENEFIT JEWS HAVE DERIVED FROM CAPITALISM

An Anecdote and Some History

Let me start by briefly documenting the first proposition: that the Jews owe an enormous debt to capitalism. The feature of capitalism that has benefited the Jews has, of course, been competition.[1] Wherever there is a monopoly, whether it be private or governmental, there is room for the application of arbitrary criteria in the selection of the beneficiaries of the monopoly—whether these criteria be color of skin, religion, national origin or what not. Where there is free competition, only performance counts. The market is color blind. No one who goes to the market to buy bread knows or cares whether the wheat was grown by a Jew, Catholic, Protestant, Muslim, or atheist; by whites or blacks. Any miller who wishes to express his personal prejudices by buying only from preferred groups is at a competitive disadvantage, since he is keeping himself from buying from the cheapest source. He can express his prejudice, but he will have to do so at

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A Jewish banker lends money to a nobleman. (1487) THE BETTMANN ARCHIVE

his own expense, accepting a lower monetary income than he could otherwise earn.

A recent personal experience illuminates sharply the importance of competition. Some years ago, I attended an International Monetary Conference held in Montreal. The persons there consisted, on the one hand, of members of the Conference, who include the two top executives of the major commercial banks throughout the world; on the other, of persons like myself invited as speakers or participants in panel discussions. A conversation with an American banker present who recounted a tale of anti-Semitism in American banking led me to estimate roughly the fraction of the two groups who were Jewish. Of the first group—the bankers proper—I estimated that about 1 per cent were Jewish. Of the much smaller second group, the invited participants in the program, roughly 25 per cent were Jewish.

Why the difference? Because banking today is everywhere monopolistic in the sense that there is no free entry. Government permission or a franchise is required. On the other hand, intellectual activity of the kind that would recommend persons for the program is a highly competitive industry with almost completely free entry.

This example is particularly striking because banking is hardly a field, like, say, iron and steel, in which Jews have never played an important role. On the contrary, for centuries Jews were a major if not dominant element in banking and particularly in international banking. But when that was true, banking was an industry with rather free entry. Jews prospered in it for that reason and also because they had a comparative advantage arising from the Church's views on usury, the dispersion of Jews throughout the world, and their usefulness to ruling monarchs precisely because of the isolation of the Jews from the rest of the community.[2]

This anecdote illuminates much history. Throughout the nearly two thousand years of the Diaspora, Jews were repeatedly discriminated against, restricted in the activities they could undertake, on occasion expelled *en masse,* as in 1492 from Spain, and often the object of the extreme hostility of the peoples

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among whom they lived. They were able nonetheless to exist because of the absence of a totalitarian state, so that there were always some market elements, some activities open to them to enter. In particular, the fragmented political structure and the numerous separate sovereignties meant that international trade and finance in particular escaped close control, which is why Jews were so prominent in this area. It is no accident that Nazi Germany and Soviet Russia, the two most totalitarian societies in the past two thousand years (modern China perhaps excepted), also offer the most extreme examples of official and effective anti-Semitism.

If we come to more recent time, Jews have flourished most in those countries in which competitive capitalism had the greatest scope: Holland in the sixteenth and seventeenth centuries, and Britain and the U.S. in the nineteenth and twentieth centuries, Germany in the late nineteenth and early twentieth century—a case that is particularly pertinent when that period is compared with the Hitler period.[3]

Freedom of Entry and Jewish Representation

Moreover, within those countries, Jews have flourished most in the sectors that have the freest entry and are in that sense most competitive. Compare the experience of the Jews in banking, that I have referred to, with their experience in retail trade, which has been almost a prototype of the textbook image of perfect competition and free entry. Or compare their minor role in large industry with their prominence in the professions such as law, medicine, accountancy and the like.[4] Though there are barriers to entry in the professions, too, once past the initial barriers, there is a large measure of free competition for custom. Even the differences within the professions illustrate my theme. In the U.S., for which I know the details, there was for a long time a major difference between medicine and law in the extent to which state licensure was an effective bar to entry. For reasons that are not relevant here, there was significant restriction of entry in medicine, relatively little in law. And Jews were proportionately much more numerous in law than in medicine.

The movie industry in the U.S. was a new industry and for that reason open to all. Jews became a major factor and this carried over to radio and television when they came on the scene. But now that government control and regulation has become more and more important, I am under the impression that the Jewish role in radio and T.V. is declining.

Capitalism and Israel

A rather different example of the benefits Jews have derived from competitive capitalism is provided by Israel, and this in a dual sense.

First, Israel would hardly have been viable without the massive contributions that it received from world Jewry, primarily from the U.S., secondarily from Britain and other Western capitalist countries. Suppose these countries had been socialist. The hypothetical socialist countries might conceivably have contributed, but if so they would have done so for very different reasons and with very different conditions attached. Compare Soviet aid to Egypt or official U.S. aid to Israel with private contributions. In a capitalist system, any group, however small a minority, can use its own resources as it wishes, without seeking or getting the permission of the majority.

Second, within Israel, despite all the talk of central control, the reality is that rapid development has been primarily the product of private initiative. After my first extended visit to Israel two decades ago, I concluded that two traditions were at work in Israel: an ancient one, going back nearly two thousand years, of finding ways around governmental restrictions; a modern one, going back a century, of belief in "democratic socialism" and "central planning." Fortunately for Israel, the first tradition has proved far more potent than the second.

To summarize: Except for the sporadic protection of individual monarchs to whom they were useful, Jews have seldom benefited from governmental intervention on their behalf. They have flourished when and only when there has been a widespread acceptance by the public at large of the general doctrine of nonintervention, so that a large measure of competitive capitalism and of tolerance for all groups has prevailed. They have flourished then de-

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spite continued widespread anti-Semitic prejudice because the general belief in non-intervention was more powerful than the specific urge to discriminate against the Jews.

III. THE ANTI-CAPITALIST MENTALITY OF THE JEWS

Despite this record, for the past century, the Jews have been a stronghold of anti-capitalist sentiment. From Karl Marx through Leon Trotsky to Herbert Marcuse, a sizable fraction of the revolutionary anti-capitalist literature has been authored by Jews. Communist parties in all countries, including the party that achieved revolution in Russia but also present-day Communist parties in Western countries, and especially in the U.S.,[5] have been run and manned to a disproportionate extent by Jews—though I hasten to add that only a tiny fraction of Jews have ever been members of the Communist party. Jews have been equally active in the less-revolutionary socialist movements in all countries, as intellectuals generating socialist literature, as active participants in leadership, and as members.

Coming still closer to the center, in Britain the Jewish vote and participation is predominantly in the Labor party, in the U.S., in the left wing of the Democratic party. The party programs of the so-called right-wing parties in Israel would be regarded as "liberal," in the modern sense, almost everywhere else. These phenomena are so well known that they require little elaboration or documentation.[6]

IV. WHY THE ANTI-CAPITALIST MENTALITY?

How can we reconcile my two propositions? Why is it that despite the historical record of the benefits of competitive capitalism to the Jews, despite the intellectual explanation of this phenomenon that is implicit or explicit in all liberal literature from at least Adam Smith on, the Jews have been disproportionately anti-capitalist?

We may start by considering some simple yet inadequate answers. Lawrence Fuchs, in a highly superficial analysis of *The Political Behavior of American Jews,* argues that the anti-capitalism of the Jews is a direct reflection of values derived from the Jewish religion and culture. He goes so far as to say, "if the communist movement is in a sense a Christian heresy, it is also Jewish orthodoxy—not the totalitarian or revolutionary aspects of world communism, but the quest for social justice through social action."[7] Needless to say—a point I shall return to later in a different connection—Fuchs himself is a liberal in the American sense. He regards the political liberalism of the Jews in this sense as a virtue, and hence is quick to regard such liberalism as a legitimate offspring of the Jewish values of learning, charity, and concern with the pleasures of this world. He never even recognizes, let alone discusses, the key question whether the ethical end of "social justice through social action" is consistent with the political means of centralized government.

Werner Sombart

This explanation can be dismissed out-of-hand. Jewish religion and culture date back over two millennia; the Jewish opposition to capitalism and attachment to socialism, at the most, less than two centuries. Only after the Enlightenment, and then primarily among the Jews who were breaking away from the Jewish religion, did this political stance emerge. Werner Sombart, in his important and controversial book, *The Jews and Modern Capitalism,* first published in 1911, makes a far stronger case that Jewish religion and culture implied a capitalist outlook than Fuchs does that it implied a socialist outlook. Wrote Sombart, "throughout the centuries, the Jews championed the cause of individual liberty in economic activity against the dominating view of the time. The individual was not to be hampered by regulations of any sort. I think that the Jewish religion has the same leading ideas as capitalism. . . . The whole religious system is in reality nothing but a contract between Jehovah and his chosen people. . . . God promises something and gives something, and the righteous must give Him something in return. Indeed, there was no community of interest between God and man which could not

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be expressed in these terms—that man performs some duty enjoined by the Torah and receives from God a *quid pro quo*."[8]

Sombart goes on to discuss the attitude toward riches and poverty in the Old and the New Testament. "You will find," he writes, "a few passages [in the Old Testament and the Talmud] wherein poverty is lauded as something nobler and higher than riches. But on the other hand you will come across hundreds of passages in which riches are called the blessing of the Lord, and only their misuse or their dangers warned against." By contrast, Sombart refers to the famous passage in the New Testament that "it is easier for a Camel to go through a needle's eye than for a rich man to enter into the Kingdom of God" and remarks, "as often as riches are lauded in the Old Testament, they are damned in the New. . . . The religion of the Christians stands in the way of their economic activities. . . . The Jews were never faced with this hindrance." He concludes, "Free trade and industrial freedom were in accordance with Jewish law, and therefore in accordance with God's will."[9]

Sombart's book, I may say, has in general had a highly unfavorable reception among both economic historians in general and Jewish intellectuals in particular, and indeed, something of an aura of anti-Semitism has come to be attributed to it. Much of the criticism seems valid but there is nothing in the book itself to justify any charge of anti-Semitism though there certainly is in Sombart's behavior and writings several decades later. Indeed, if anything I interpret the book as philo-Semitic. I regard the violence of the reaction of Jewish intellectuals to the book as itself a manifestation of the Jewish anti-capitalist mentality. I shall return to this point later.

A more balanced judgment than either Fuchs' or Sombart's with which I am in full accord is rendered by Nathan Glazer, who writes, "It is hard to see direct links with Jewish tradition in these attitudes;. . . One thing is sure: it is an enormous oversimplification to say Jews in Eastern Europe became socialists and anarchists because the Hebrew prophets had denounced injustice twenty-five hundred years ago. . . . The Jewish religious tradition probably does dispose Jews, in some subtle way, toward liberalism and radicalism, but it is not easy to see in present-day Jewish social attitudes the heritage of the Jewish religion."[10]

Jews, Intellectualism, and Anti-Capitalism

A second simple explanation is that the Jewish anti-capitalist mentality simply reflects the general tendency for intellectuals to be anti-capitalist plus the disproportionate representation of Jews among intellectuals. For example, Nathan Glazer writes, "The general explanations for this phenomenon [the attachment of the major part of the intelligentsia to the Left] are well known. Freed from the restraints of conservative and traditional thinking, the intelligentsia finds it easier to accept revolutionary thinking, which attacks the established order of things in politics, religion, culture, and society. . . . Whatever it is that affected intellectuals, also affected Jews."[11] Glazer goes on, however, to qualify greatly this interpretation by citing some factors that affected Jews differently from other intellectuals. This explanation undoubtedly has more validity than Fuchs' simple-minded identification of anti-capitalism with Jewish religion and culture. As the West German example quoted earlier suggests, non-Jewish intellectuals are capable of becoming dominantly collectivist. And there is no doubt that the intellectual forces Glazer refers to affected Jewish intellectuals along with non-Jewish. However, the explanation seems highly incomplete in two respects. First, my impression is that a far larger percentage of Jewish intellectuals than of non-Jewish have been collectivist. Second, and more important, this explanation does not account for the different attitudes of the great mass of Jews and non-Jews who are not intellectual. To explain this difference we must dig deeper.

A third simple explanation that doubtless has some validity is the natural tendency for all of us to take the good things that happen to us for granted but to attribute any bad things to evil men or an evil system. Competitive capitalism has permitted Jews to flourish economically and culturally because it has prevented anti-Semites from imposing their values on others, and

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from discriminating against Jews at other people's expense. But the other side of that coin is that it protects anti-Semites from having other people's values imposed on them. It protects them in the expression of their anti-Semitism in their personal behavior so long as they do it at their own expense. Competitive capitalism has therefore not eliminated social anti-Semitism. The free competition of ideas that is the natural companion of competitive capitalism might in time lead to a change in tastes and values that would eliminate social anti-Semitism but there is no assurance that it will. As the New Testament put it, "In my Father's house are many mansions."

No doubt, Jews have reacted in part by attributing the residual discrimination to "the System." But that hardly explains why the part of the "system" to which the discrimination has been attributed is "capitalism." Why not, in nineteenth-century Britain, to the established church and the aristocracy; in nineteenth- and twentieth-century Germany, to the bureaucracy; and in twentieth-century U.S., to the social rather than economic establishment. After all, Jewish history surely offers more than ample evidence that anti-Semitism has no special connection with a market economy. So this explanation, too, is unsatisfactory.

I come now to two explanations that seem to me much more fundamental.

Judaism and Secularism

The first explanation, which has to do with the particular circumstances in Europe in the nineteenth century, I owe to the extremely perceptive analysis of Werner Cohn in his unpublished Ph.D. dissertation on the "Sources of American Jewish Liberalism." Cohn points out that:

> Beginning with the era of the French revolution, the European political spectrum became divided into a "Left" and a "Right" along an axis that involved the issue of secularism. The Right (conservative, Monarchical, "clerical") maintained that there must be a place for the church in the public order; the Left (Democratic, Liberal, Radical) held that there can be no (public) Church at all. . . .
>
> The axis separating left from right also formed a natural boundary for the pale of Jewish political participation. It was the Left, with its new secular concept of citizenship, that had accomplished the Emancipation, and it was only the Left that could see a place for the Jews in public life. No Conservative party in Europe—from the bitterly hostile Monarchists in Russia through the strongly Christian "noines" in France to the amiable Tories in England—could reconcile itself to full Jewish political equality. Jews supported the Left, then, not only because they had become unshakeable partisans of the Emancipation, but also because they had no choice; as far as the internal life of the Right was concerned, the Emancipation had never taken place, and the Christian religion remained a prerequisite for political participation.

Note in this connection that the only major leaders of Conservative parties of Jewish origin—Benjamin Disraeli in England, Friedrich Julius Stahl in Germany—were both professing Christians (Disraeli's father was converted, Stahl was baptized at age 19).

Cohn goes on to distinguish between two strands of Leftism: "rational" or "intellectual" and "radical." He remarks that "Radical leftism . . . was the only political movement since the days of the Roman empire in which Jews could become the intellectual brethren of non-Jews . . . while intellectual Leftism was Christian at least in the sense of recognizing the distinction between 'religious' and 'secular,' radical Leftism—eschatological socialism in particular—began to constitute itself as a new religious faith in which no separation between the sacred and the profane was tolerated . . . [Intellectual-Leftism] offered [the Jews] a wholly rational and superficial admission to the larger society, [radical Leftism], a measure of real spiritual community."

I share Glazer's comment on these passages: "I do not think anyone has come closer to the heart of the matter than has the author of these paragraphs."

Cohn's argument goes far to explain the important role that Jewish intellectuals played in the Marxist and socialist movement, the almost

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universal acceptance of "democratic socialism" by the European Jews in the Zionist movement, particularly those who emigrated to Palestine, and the socialist sentiment among the German Jewish immigrants to the United States of the mid-nineteenth century and the much larger flood of East European Jews at the turn of the century.

Yet by itself it is hard to accept Cohn's point as the whole explanation for the anti-capitalist mentality of the Jews. In the United States, from the very beginning, the separation of church and state was accepted constitutional doctrine. True, the initial upper class was Christian and Protestant, but that was true of the population as a whole. Indeed, the elite Puritan element was, if anything, pro-Semitic. As Sombart points out in reconciling his thesis about the role of Jews in capitalist development with Max Weber's about the role of the Protestant Ethic in capitalist development, the Protestants, and the Puritans especially, went back to the Old Testament for their religious inspiration and patterned themselves on the ancient Hebrews. Sombart asserts: "Puritanism *is* Judaism."[12] Cohn too emphasizes this phenomenon, pointing to Puritan tolerance toward Jews in the colonial era, despite their general intolerance toward other religious sects.[13]

To come down to more recent times in the United States, Theodore Roosevelt was highly popular among the Jews partly because of his willingness to object publicly to Russian pogroms. Outside of the closely knit socialist community in New York most Jews probably were Republicans rather than Democrats until the 1920s, when first Al Smith and then Franklin Delano Roosevelt produced a massive shift to the Democrats from both the Right and the Left. The shift from the Left betokened a weakening of the European influence, rather than being a manifestation of it. Yet despite that weakening influence, the American Jewish community, which now consists largely of second and third and later generation Americans, retains its dominant leftish cast.

The final explanation that suggests itself is complementary to Cohn's yet not at all identical with it. To justify itself by more than the reference to the alleged role of the Jews in Christ's crucifixion, anti-Semitism produced a stereotype of a Jew as primarily interested in money, as a merchant or moneylender who put commercial interests ahead of human values, who was money-grasping, cunning, selfish and greedy, who would "jew" you down and insist on his pound of flesh. Jews could have reacted to this stereotype in two ways: first, by accepting the description but rejecting the values that regarded these traits as blameworthy; secondly, by accepting the values but rejecting the description. Had they adopted the first way, they could have stressed the benefits rendered by the merchant and by the moneylender—recalling perhaps Bentham's comment that "the business of a money-lender . . . has no where nor at any time been a popular one. Those who have the resolution to sacrifice the present to the future, are natural objects of envy to those who have sacrificed the future to the present. The children who have eat their cake are the natural enemies of the children who have theirs. While the money is hoped for, and for a short time after it has been received, he who lends it is a friend and benefactor: by the time the money is spent, and the evil hour of reckoning is come, the benefactor is found to have changed his nature, and to have put on the tyrant and the oppressor. It is oppression for a man to reclaim his own money; it is none to keep it from him."[14]

Similarly, Jews could have noted that one man's selfishness is another man's self reliance; one man's cunning, another's wisdom; one man's greed, another's prudence.

But this reaction was hardly to be expected. None of us can escape the intellectual air we breathe, can fail to be influenced by the values of the community in which we live. As Jews left their closed ghettoes and shtetls and came into contact with the rest of the world, they inevitably came to accept and share the values of that world, the values that looked down on the "merely" commercial, that regarded moneylenders with contempt. They were led to say to themselves: if Jews are like that, the anti-Semites are right.

The other possible reaction is to deny that Jews are like the stereotype, to set out to persuade oneself, and incidentally the anti-Semites, that far from being money-grabbing, selfish and heartless, Jews are really public-

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spirited, generous, and concerned with ideals rather than material goods. How better to do so than to attack the market with its reliance on monetary values and impersonal transactions and to glorify the political process, to take as an ideal a state run by well-meaning people for the benefit of their fellow men?

Israel as a Diasporal Reaction

I was first led to this explanation of the anti-capitalist mentality of the Jews by my experience in Israel. After several months there, I came to the conclusion that the quickest way to reach a generalization in any area about values in Israel was to ask what was true of the Jews in the Diaspora and reverse it.

Jews in the Diaspora were urban dwellers engaged in commercial pursuits and almost never in agriculture; in Israel, agriculture has much higher prestige than commerce.

Jews in the Diaspora shunned every aspect of military service; Israelis value the military highly and have demonstrated extraordinary competence.

These two reversals are readily explained as the children of necessity, but let me continue.

Yiddish or Ladino was the language of the Jews in the Diaspora; both are looked down on in Israel, where Hebrew is the language.

Jews in the Diaspora stressed intellectual pursuits and rather looked down on athletics. There is tremendous emphasis on athletics in Israel.

And for what may seem like an irrelevant clincher: Jews in the Diaspora were reputed to be excellent cooks; cooking in Israel is generally terrible, in homes, hotels, and restaurants.

Can this record not be interpreted as an attempt, no doubt wholly subconscious, to demonstrate to the world that the commonly accepted stereotype of the Jews is false?

I interpret in the same way the evidence assembled by James Wilson and Edward Banfield that Jews (and "Yankees") tend to adopt a "community-serving conception" of the public interest, and to vote against their own immediate self-interest, in larger proportions than most other groups.[15]

I interpret also in this way the attempt by Fuchs to trace Jewish "liberalism" to Jewish values and the negative reaction of Jewish critics to Sombart's book. If, like me, you regard competitive capitalism as the economic system that is most favorable to individual freedom, to creative accomplishments in technology and the arts, and to the widest possible opportunities for the ordinary man, then you will regard Sombart's assignment to the Jews of a key role in the development of capitalism as high praise. You will, as I do, regard his book as philo-Semitic. On the other hand, if you are trying your level best to demonstrate that Jews are dedicated to selfless public service in a socialist state, that commerce and money-lending were activities forced on them by their unfortunate circumstances and were wholly foreign to their natural bent, then you will regard Sombart as an anti-Semite simply reinforcing the stereotype against which you are battling. In this vein, the *Universal Jewish Encyclopaedia* says in its article on Sombart: "He *accused* the Jews of having created capitalism" (my italics).

The complementary character of the final two explanations is, I trust, clear. Whence comes the value structure that puts service to the general public above concern for oneself and one's close family; government employment above private business; political activity above commercial activity; love of mankind in general above concern for men in particular; social responsibility above individual responsibility? Very largely from the collectivist trend of thought to which Jews contributed so much for the reasons advanced by Cohn.

Consider, for a moment, the reaction to the anti-Semitic stereotype by a nineteenth-century English Philosophical radical steeped in Benthamite utilitarianism—by a David Ricardo, James Mill, even Thomas Malthus. Could one of them ever have termed the allegation that Jews created capitalism an accusation? They would have termed it high praise. They would have regarded widespread emphasis on rational profit calculation as just what was needed to promote "the greatest good of the greatest number," emphasis on the individual rather than the society as a corollary of belief in freedom, and so on.

I conclude then that the chief explanations for the anti-capitalist mentality of the Jews are

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the special circumstances of nineteenth-century Europe which linked pro-market parties with established religions and so drove Jews to the Left, and the subconscious attempts by Jews to demonstrate to themselves and the world the fallacy of the anti-Semitic stereotype. No doubt these two main forces were reinforced, and the view of the Jews altered in detail, by their historical and cultural heritage, which made them specially sensitive to injustice and specially committed to charity. They were reinforced also by whatever the forces are that predispose intellectuals towards the Left.

Whether or not this explanation is a satisfactory resolution of the paradox which was my starting point, it remains true that the ideology of the Jews has been and still is opposed to their self-interest. Except behind the Iron Curtain, this conflict has been mostly potential rather than real. In the West, so long as a large measure of laissez-faire capitalism prevailed, the economic drive of the Jews to improve their lot, to move upward in the economic and social scale, was in no way hindered by the preaching of socialism as an ideal. They could enjoy the luxury of reacting against the anti-Semitic stereotype, yet benefit from the characteristics that that stereotype caricatured. On a much more subtle and sophisticated level, they were in the position of the rich parlor socialists—of all ethnic and religious backgrounds—who bask in self-righteous virtue by condemning capitalism while enjoying the luxuries paid for by their capitalist inheritance.

As the scope of government has grown, as the collectivist ideas have achieved acceptance and affected the structure of society, the conflict has become very real. I have already stressed the conflict in Israel that has led to giving a far greater role to market forces than the ideology of the early leaders envisioned. I have been struck in the United States with the emergence of the conflict in reaction to some of the proposals by Senator George McGovern. His early proposal, later rescinded, to set a top limit on inheritances produced an immediate reaction from some of those who might have been expected to be and were his strongest supporters. It came home to them that his measures—completely consistent with their professed ideology—would greatly hamper the upward social and economic mobility of which they had been the beneficiaries.

Perhaps the reality of the conflict will end or at least weaken the paradox that has been the subject of my talk. If so, it will be a minor silver lining in the dark cloud of encroaching collectivism. □

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1. The only other writer I have come across who explicitly stresses the benefits Jews have derived from capitalism is Ellis Rivkin, *The Shaping of Jewish History* (New York: Scribner's, 1971). Unfortunately, Rivkin's interesting analysis is marred by misconceptions about the nature and operation of capitalism. He takes the accumulation of capital rather than free entry as its distinguishing feature.

2. See for example Hannah Arendt, *The Origins of Totalitarianism* (New York: Harcourt, Brace & Co., 1951), on "court Jews," also Werner Sombart, *The Jews and Modern Capitalism* (London: T. Fisher Unwin, 1913) [translated from 1911 German original].

3. Sombart argues that the relation is the reverse: that capitalism flourished where it did because Jews were given a considerable measure of freedom. But he would not have denied that the relation is reciprocal. And his version has been seriously questioned by economic historians. See Introduction by Bert F. Hoselitz to the American edition of Sombart's book, *Jewish Contributions to Civilization*, 1919, chapter viia, pp. 247-267.

4. See Nathaniel Weyl, *The Creative Elite in America* (Washington, D.C.: Public Affairs Press 1966), particularly the tables in Appendix III giving results for different "elite rosters."

5. For the U.S., see Nathan Glazer, *The Social Basis of American Communism* (New York: Harcourt, Brace and World, Inc., 1961), pp. 85, 130, 132.

6. For the American record, see Werner Cohn, *Sources of American Jewish Liberation—A Study of the Political Alignments of American Jews*, unpublished Ph.D. thesis, New School for Social Research, June 1956; Lawrence Fuchs, *The Political Behavior of American Jews* (Glencoe, Ill.: Free Press, 1956); Nathan Glazer, *American Judaism* (Chicago: University of Chicago Press, 1957); Nathan Glazer and Daniel Patrick Moynihan, *Beyond the Melting Pot* (Cambridge: MIT Press, 2nd ed. 1970).

7. *Op. cit.*, p. 197.

8. *Op. cit.*, pp. 153, 205, 209.

9. *Ibid.*, pp. 216, 221, 222, 248.

10. Nathan Glazer, *American Judaism*, pp. 135, 136, 139.

11. *The Social Basis of American Communism*, pp. 166-167.

12. *Op. cit.*, p. 249.

13. However, according to Abba Eban, "Jews were refused admittance into Massachusetts and Connecticut by the Puritans whose idea of religious liberty was linked to their own brand of faith. However, in liberal Maryland and in Rhode Island, where freedom of conscience was an unshakable principle, they found acceptance." *My People* (New York: Behrman House, Inc., 1968).

14. Jeremy Bentham, *In Defense of Usury* (1787).

15. James Q. Wilson and Edward C. Banfield, "Public-Regardingness as a Value Premise in Voting Behavior," *American Political Science Review*, LVIII, 4 (Dec., 1964), pp. 876-887; "Political Ethos Revisited," *American Political Science Review*, LXV, 4 (Dec., 1971), pp. 1048-1062. The similarity between the Jews and the Yankees in some of the characteristics examined by Wilson and Banfield is some evidence, if rather weak evidence, for the influence of religion and culture in view of the connection between Puritanism and Judaism.

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Public Policy Debate: The Rigged Game

by John Semmens

By any measure, the federal government is growing at an alarming rate—the tax burden continues to soar, spending is out of control, and the fiscal 1988 omnibus appropriations bill included an incredible array of special-interest boondoggles. But isn't this what the people want? Haven't they voted for an ever-expanding government? Let us give the matter some thought.

The fact that the last general election saw 98 per cent of the incumbent members of Congress win re-election would appear to substantiate the contention that wastrel government is the will of the people. However, the success rate of incumbent legislators is not necessarily due to voter approval. After all, the success rate of incumbent officers of the Soviet Union's Communist Party is 99 per cent. What's more, their voter turnout ratios are greater. Yet, we'd hardly tout such statistics as a manifestation of an obviously popular government.

This is not to say that American elections are no different from those of more authoritarian systems. At the same time, though, members of the American government do have certain advantages in slanting the public policy debate in favor of their own interests. Private citizens, on the other hand, are handicapped by critical disadvantages even in a society as open to free speech as ours.

Those on the outside of government are handicapped in at least three key ways. First, private citizens often have great difficulty in

acquiring the information needed to wage a successful campaign against government policy. Second, private citizens are at a financial disadvantage in terms of the resources they can apply to the policy debate. Third, private citizens often must do battle on the bureaucrats' home turf.

Consider the matter of information. Proponents of increased government spending have people on the public payrolls working full-time to produce words, numbers, and pictures in support of their cases. Congressmen have extensive staffs to do their bidding. Furthermore, the bureaucracy itself is constantly generating reports, statistics, and presentations on behalf of bigger budgets, more appropriations, and new programs. All of this, of course, is financed out of public funds.

Meanwhile, anyone who would question the need for bloated government programs has tremendous difficulty. After paying taxes to fund the propaganda on behalf of increased government spending, he must find the after-tax resources to fund his contrary views. The facts he

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may need often are buried in the recesses of the bureaucracy. Information is concealed in obscure code-like jargon. Formats peculiar to the public sector obstruct a clear view of the most basic operational information.

Even someone well versed in private-sector accounting can have difficulty deciphering government budget and expenditure reports. Sometimes there is little accounting at all for how public funds are spent. For example, the General Accounting Office (Congress's auditing arm) admitted that 80 per cent of the grants awarded by the Urban Mass Transportation Administration during the Carter Administration were not audited by UMTA. There was no verification of how the money was spent. This information, however, did not receive wide publicity. Subsidies to public transit still amount to billions of dollars each year.

Government employees who may be appalled by the waste they see around them are discouraged from communicating the knowledge to the general public. Complaints through official channels most often are ignored or suppressed. Sanctions and threats of sanctions are used to intimidate any inclination an employee may have to discuss the deficiencies of existing programs or policies. While much hoopla has been made of laws to protect government "whistle-blowers," this protection is granted or withheld at the discretion of Congress. As a major participant in the waste of taxpayers' money, Congress hardly can be expected to be sympathetic to insiders who would expose these schemes to outside scrutiny.

Ignoring Waste

Public hearings on government programs are little more than parades of self-serving supplicants. A few years ago, I appeared at a Senate Appropriations Committee hearing. My objective was to present evidence detailing the egregious waste of one of the multitude of transportation subsidy programs. I was appearing on my own time. My transportation was provided by a privately funded foundation. Mine was the only testimony that day which opposed the subsidies. Arrayed opposite me was a crowd of more than two dozen proponents of continued and expanded subsidies. Virtually every one of these witnesses appeared on behalf of some state or local government agency. The time and transportation of these witnesses were paid for by the same taxpayers from whom future subsidies were to be extracted.

Even when referenda are used to give a greater impression of voter control, the deck is stacked against the private citizen. Public officials call on the vast taxpayer-supported bureaucracy to create the appropriate data in support of the expanded government program. When these partisan undertakings are questioned, the ritualistic defense is that the activities are merely "informational" in character. Of course, the information may have been carefully selected and adjusted to remove any negativism or inconveniently contradictory evidence.

Citizens who oppose increases in taxes or spending must campaign with their own money —what's left of it after taxes. Public law disallows the tax-deductibility of contributions to organizations whose activities are aimed at influencing public policy. The typical public issue controversy, then, sees money taken from the taxpayer to support lobbying for laws designed to take more money from him. Any defense against these raids on his income must be financed with after-tax dollars.

Even after private citizens win a battle against the expansion of government, the war goes on. The restraints achieved by a successful citizens' effort almost always leave a core of the bureaucracy and the big-spending politicians intact. Work begins immediately—at taxpayers' expense—on schemes to evade or reverse any restraints on government power.

New legislation to raise taxes or spending can be introduced at any time. Proposals voted down yesterday can be resurrected today. Sometimes the process is so rigged that a proposal can hardly be resisted, as in the case of local school budgets. If the budget proposal fails, it can be brought up over and over until it passes. Once it passes, the rules change—it cannot be repealed even if the voters change their minds.

The rationalization behind this one-sided procedure is the supposed need to protect public-sector budgeting from the contingencies of the electoral process. Left unstated is the

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possibility that the private sector could benefit from being relieved of the uncertainties inherent in repeated attempts to raise taxes. This is especially true for private-sector capital budgeting.

The more routine functions of government appropriations take place when the legislature is in session. The offices of the recipient government agencies are likely to be conveniently located near the legislature. Private-sector businesses and individuals, on the other hand, are dispersed across the nation. It is relatively easy for the public-sector bureaucrat to drop in on legislative hearings to offer support for his agency's budget. It is a lot less convenient for the average citizen to make the trek from home or business to the law-making arena, especially when he must do it on his own time and at his own expense.

Clearly, the claim that the will of the people prevails in government is, at best, an unsubstantiated boast. From a scientific perspective, of course, we cannot rule out the hypothesis that government is operating as the majority of the citizens wish. However, examination of the way the system actually works lends credence to the idea that government may not be closely adhering to the consent of the governed.

The fact that the policy debate game is rigged is cause for concern. But the fact that the proponents of bigger government have to resort to rigging to bolster their chances is also cause for encouragement. The fear that an unrigged game would undo big government is a backhanded validation of the strength of ideas, logic, and integrity. In the long run, such strengths should prevail over the tricks and stratagems of the rigged game. □

The Line-Item Veto Won't Work

by Cecil E. Bohanon and T. Norman Van Cott

Many Americans, including us, are concerned about Federal spending. Except to hardened statists, it is clear that government spending is out of control. This situation prompts many, especially those in conservative circles, to argue that granting Presidents line-item veto authority would restore fiscal sanity. Line-item authority, goes the argument, means Congress could not blackmail Presidents into "supporting" its pork barrel schemes by attaching them to major legislative initiatives. Presidents are alleged to be less beholden to narrow special interests, and armed with a line-item scalpel, they could excise Congressional pandering to these interests.

The evidence to back up the argument is scanty. Some state governors possess line-item authority, and all recent Presidents have requested it. Line-item advocates offer anecdotes about what particular governors have done. They also fantasize about what various Presidents would have done.

We have no doubt that Harry Truman or Ronald Reagan, for example, might have eliminated some silly spending riders had they possessed the line-item veto. However, this does not persuade us that overall spending would have been lower, for we are equally persuaded

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that they would have had a strong incentive to avoid line-item vetoes in exchange for Congressional support for their own "pet" projects.

Bad Facts

The only evidence that would make a convincing case for the veto's efficacy would be data showing that governments which have the veto authority spend less than comparable governments which do not. This would require, of course, that other factors which affect spending be statistically controlled. Per capita government spending in California, for example, probably would be higher than in Mississippi even if California had the veto and Mississippi did not. Before concluding that the line-item veto increases spending, one would have to eliminate statistically the influence of other differences between California and Mississippi.

Fortunately, such a study is not only possible, it has already been done. Burton Abrams of the University of Delaware and William Dougan of Dartmouth College have compared states that allow governors a line-item veto with those that do not.[1] If the line-item veto works as its advocates claim, spending will be less in states where the veto is present, controlling, of course, for other factors. Abrams and Dougan's evidence indicates that the veto has *no* influence on state spending. The implications for the efficacy of a Presidential line-item veto are obvious.

Bad Theory

We are not surprised by these implications. Our nation's fiscal malady can be traced to a more fundamental source than Congressional blackmail. Indeed, the malady was avoided for many decades *without* the line-item veto. Ascribing the problem to the lack of the veto without understanding its root cause is analogous to a blindfolded man's trying to pin the tail on the donkey.

In our view, the malady stems from a change in the implicit "Constitutional ethic" describing the relationship between private economic actions and the government. For the first century or so of our nation's existence, there was a commonly held view which placed most private economic activity outside the domain of government policy. The implication of this ethic is profound. If no one believes that the government is (or should be) the guarantor of income security, government transfer payments do not inflate the budget. If government intervention in private markets is not considered appropriate, agricultural price support programs do not drain the treasury.

Government programs typically focus benefits on the few and spread their costs among the many. This, of course, skews lobbying effort in favor of the special-interest few, making such programs irresistible to politicians. The Founding Fathers were well aware of this and its implications for fiscal excess. Constitutional separation of powers among the three branches of government was intended to make it difficult for special interests to utilize government for their narrow purposes. The ethic placing most economic functions outside the realm of partisan politics reinforced the Constitutional separation of powers.

The New Constitutional Ethic

In the late 1800s this ethic began to erode.[2] Government began interjecting itself into private economic relations. While any single interference might have been considered unimportant, the change in the ethic restricting government was significant. The ability of special interest groups to use government to capture the wealth of others increased. Our nation now finds itself in a situation where government wealth transfers have extended themselves into every nook and cranny of our economic life. Moreover, all social and economic ills, real or imagined, are viewed as a legitimate domain for a new government program. This is the *new* ethic.

The line-item veto does not arrest this process, let alone enable us to regain what we have lost. Regardless of protestations to the contrary, Presidents are political animals, indeed the most successful of the species. All members of the species find serving special-interest constituencies irresistible. This insures their survival. It is line-item proponent Ronald Reagan, for example, who has proposed yet

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another Cabinet level bureaucracy—the Department of Veteran Affairs.

In a world where egocentricity is epidemic, line-item advocates are hitching their fiscal reform wagon to the idea that good people will do good things if given the opportunity. The Founding Fathers, knowing the good people-good things link was fragile, opted for a system which limited government's scope. Unfortunately, this wisdom continues to escape us.

It is instructive to note that Jimmy Carter's attempt at fiscal reform collided with the same contradiction. For Carter it was "sunset laws" that would cut the fluff out of government. Continued existence of government agencies and their programs would be put on a scientific basis by requiring their periodic review by informed citizens. Like line-item advocates, Carter failed to understand the power of special interests in a setting where there is effectively no limit on government's scope of activities. That is, the same special interest constituencies responsible for the government initiatives will prevail in any periodic review.

Concluding Comments

The only substantive thing the line-item veto would accomplish is to realign political clout away from Congress to the President. Lobbying efforts would focus on a single political animal rather than 535 of them. The President's ability to reward *his* special interest constituencies would be enhanced while Congress's ability would be diminished.

The expanded scope of government has made the Congressional-Presidential contest a high-stakes game. This is why recent Presidents have clamored for the veto, whereas Martin Van Buren, for example, ignored the issue. That is, it is not a desire by recent Presidents to limit government which explains their requests for line-item authority. Rather, when Federal spending accounts for 20 per cent of GNP, a line-item veto is more valuable to a President than if spending accounted for 5 per cent of GNP. Is it any wonder that Congress wants to continue playing the game by today's rules?

The clamor for the veto has been wrapped in public-spiritedness. The colorful but contemptible spending riders Congress indulges in are only the tip of an iceberg, however. In a sense, the attention the riders generate is unfortunate because they divert attention from the new ethic responsible for the entire Federal iceberg. The evidence about state governors indicates that their line-item veto does not affect state icebergs. Why would Federal experience be any different? □

1. Burton A. Abrams and William R. Dougan, "The Effect of Constitutional Restraints on Governmental Spending," *Public Choice*, (No. 2, 1986).

2. Dwight R. Lee persuasively argues that this erosion coincided with the failure of the judiciary to consistently uphold private property rights and the sanctity of private contracts. See his "Political Economy of the U.S. Constitution," *The Freeman*, February 1987.

IDEAS ON LIBERTY

Power Corrupts

To expect self-denial from men, when they have a majority in their favor and consequently power to gratify themselves, is to disbelieve all history and universal experience.

—JOHN ADAMS

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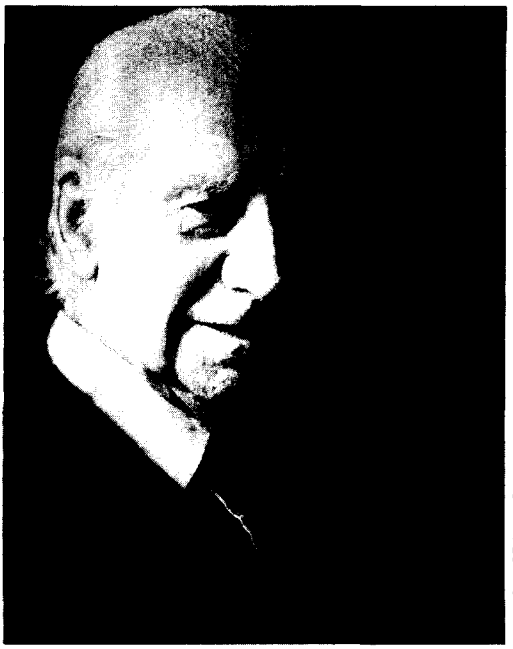
William H. Hutt, 1899-1988

by Richard M. Ebeling

In a century that has glorified and tried every variation on the collectivist theme, there has been a handful of dedicated and uncompromising scholars who have resisted the socialist tide. They have defended the market economy, individual liberty, and constitutionally restrained limited government. On June 19, 1988, one of these champions of the free society, Professor William H. Hutt, passed away.

In a career that spanned more than six decades, William Hutt unflinchingly defended the competitive market order against the interventionist schemes of the Keynesian economists, argued against the monopolistic practices of trade unionists that harmed the labor-market choices of the individual worker, warned against regulatory policies that retarded competition and bestowed privileges on a few, and forcefully espoused the classical liberal case for free men and free markets as a solution to the tragedy of state-imposed racism in South Africa.



UNIVERSITY OF DALLAS

William H. Hutt

Born in 1899, Professor Hutt served in the Royal Air Force during the First World War. He then attended the London School of Economics, studying with one of England's greatest liberal economists, Edwin Cannan. After working for the famous English libertarian publisher Sir Ernest Benn in the mid-1920s, Hutt accepted a teaching position at the University of Cape Town in South Africa in 1929. Following his retirement in 1965, he was a visiting professor at several American universities and was Professor Emeritus at the University of Dallas at the time of his death.

For almost three decades following the publication of Keynes' *The General Theory* in 1936, most economists accepted the argument that a market economy was inherently unstable, produced waves of high and prolonged unemployment, and could be saved only by active and aggressive government deficit spending

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and inflation-causing monetary expansion. In several works, *The Theory of Idle Resources* (1939), *Keynesianism—Retrospect and Prospect* (1963), *A Rehabilitation of Say's Law* (1974), and *The Keynesian Episode* (1979), Professor Hutt demolished the foundations of Keynesian thinking. He demonstrated that Keynes failed to understand how a system of competitive and flexible wages and prices assured adjustment and coordination of ever-changing supplies and demands, and that budgetary deficits and monetary expansion produced an illusory prosperity that would retard real adjustment and set the stage for the harmful excesses and economic distortions that always come with inflation and reckless government spending.

At the heart of many of the misunderstandings about the market economy, Professor Hutt maintained, was the false belief that a laissez-faire policy was harmful to the individual working man. That belief was challenged and refuted in his books, *The Theory of Collective Bargaining* (1930; new edition, 1975) and *The Strike-Threat System* (1973). Hutt proved that the greatest opportunity for the material improvement of the individual worker was on an unhampered labor market, upon which employers bid against each other to hire his services and where no barriers were placed in his way as he sought to improve his condition by seeking out the most attractive employment options. Government-supported trade unions could benefit only that minority of workers lucky enough to remain employed after high union wages had priced other workers out of the labor market and onto the unemployment line. Aggressive union power and threats provided privileges for a few at the expense of others.

Hutt also argued that bad economic theory led to bad economic policy. This was the theme in his two works, *Economists and the Public* (1936) and *Politically Impossible . . . ?* (1971). For too long, he insisted, it had not been understood that it was rigid systems of government privilege and favoritism that had maintained conditions of poverty and had led to stark and persistent inequalities of wealth. The market economy was the "great leveler." Established wealth could disappear under the challenge of new and young competitive rivals. Those who were poor could rise to riches if they could devise ways to better satisfy consumers. And all the time, capitalist progress expanded the horizon of choice and broadened the base of prosperity for all. Nothing was politically impossible, in the long run, if sound economic reasoning was not abandoned and if dangerous political compromises were not made along the path of reform and repeal.

The truth is, as I have spent almost my whole academic life in reiterating, the free market is color blind and race blind. When we buy a product, we do not ask, "What was the color of the person who made this?" We ask, "Is this good value for money?"

—W. H. Hutt

An application of his approach to economic theory and policy is given in his masterful study, *The Economics of the Colour Bar* (1964). He traced the history of apartheid in South Africa to the labor-market restrictions of white trade unions and the government barriers to black Africans competing against white businessmen. And he demonstrated that a solution was possible for South Africa through free trade, open labor markets, and protection of individual rights.

In an era in which the most absurd and barbaric ideas have been heralded as brilliant insights in economics, William H. Hutt neither compromised nor toned down the sharp edges of his arguments. But glory is fleeting, and long after the collectivist heralds are forgotten, William Hutt's writings and principled stand will be remembered. □

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John D. Rockefeller and the Oil Industry

by Burt Folsom

In 1885, John D. Rockefeller wrote one of his partners, "Let the good work go on. We must ever remember we are refining oil for the poor man and he must have it cheap and good." Or as he put it to another partner: "Hope we can continue to hold out with the best illuminator in the world at the *lowest* price."

Even after 20 years in the oil business, "the best . . . at the lowest price" was still Rockefeller's goal; his Standard Oil Company had already captured 90 per cent of America's oil refining and had pushed the price down from 58 cents to eight cents a gallon. His well-groomed horses delivered blue barrels of oil throughout America's cities and were already symbols of excellence and efficiency. Consumers were not only choosing Standard Oil over that of his competitors; they were also preferring it to coal oil, whale oil, and electricity. Millions of Americans illuminated their homes with Standard Oil for one cent per hour; in doing so, they made Rockefeller the wealthiest man in American history.

Rockefeller's early life hardly seemed the making of a near billionaire. His father was a peddler who often struggled to make ends meet. His mother stayed at home to raise their six children. They moved around upstate New York—from Richford to Moravia to Oswego—and eventually settled in Cleveland, Ohio. John D. was the oldest son. Although he didn't have new suits or a fashionable home, his family life was stable. From his father he learned how to earn money and hold on to it; from his mother he learned to put God first in his life, to be honest, and to help others.

"From the beginning," Rockefeller said, "I was trained to work, to save, and to give." He did all three of these things shortly after he graduated from the Cleveland public high school. He always remembered the "momentous day" in 1855, when he began work at age sixteen as an assistant bookkeeper for 50 cents per day.

On the job Rockefeller had a fixation for honest business. He later said, "I had learned the underlying principles of business as well as many men acquire them by the time they are forty." His first partner, Maurice Clark, said that Rockefeller "was methodical to an extreme, careful as to details and exacting to a fraction. If there was a cent due us he wanted it. If there was a cent due a customer he wanted the customer to have it." Such precision irritated some debtors, but it won him the confidence of many Cleveland businessmen; at age nineteen Rockefeller went into the grain shipping business on Lake Erie and soon began dealing in thousands of dollars.

Rockefeller so enjoyed business that he dreamed about it at night. Where he really felt at ease, though, was with his family and at church. His wife, Laura, was also a strong Christian and they spent many hours a week attending church services, picnics, or socials at the Erie Street Baptist Church. Rockefeller saw a strong spiritual life as crucial to an effective business life. He tithed from his first paycheck

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and gave to his church, a foreign mission, and the poor. He sought Christians as business partners and later as employees. One of his fellow churchmen, Samuel Andrews, was investing in oil refining; and this new frontier appealed to young John. He joined forces with Andrews in 1865 and would apply his same precision and honesty to the booming oil industry.

Discovering Crude Oil

The discovery of large quantities of crude oil in northwest Pennsylvania soon changed the lives of millions of Americans. For centuries, people had known of the existence of crude oil scattered about America and the world. They just didn't know what to do with it. Farmers thought it a nuisance and tried to plow around it; others bottled it and sold it as medicine.

In 1855, Benjamin Silliman, Jr., a professor of chemistry at Yale, analyzed a batch of crude oil. After distilling and purifying it, he found that it yielded kerosene—a better illuminant than the popular whale oil. Other by-products of distilling included lubricating oil, gasoline, and paraffin, which made excellent candles. The only problem was cost: it was too expensive to haul the small deposits of crude from northwest Pennsylvania to markets elsewhere.

Silliman and others, however, formed an oil company and sent "Colonel" Edwin L. Drake, a jovial railroad conductor, to Titusville to drill for oil. "Nonsense," said local skeptics. "You can't pump oil out of the ground as you pump water." Drake had faith that he could; in 1859, when he built a 30-foot derrick and drilled 70 feet into the ground, all the locals scoffed. When he hit oil, however they quickly converted and preached oil drilling as the salvation of the region.

There were few barriers to entering the oil business: drilling equipment cost less than $1,000, and oil land seemed abundant. By the early 1860s, speculators were swarming northwest Pennsylvania, cluttering it with derricks, pipes, tanks, and barrels. "Good news for whales," concluded one newspaper. America had become hooked on kerosene.

Cleveland was a mere hundred miles from the oil region, and Rockefeller was fascinated with the prospects of refining oil into kerosene. He may have visited the region as early as 1862. By 1863 he was talking oil with Samuel Andrews, and two years later they built a refinery together. Two things about the oil industry, however, bothered Rockefeller right from the start: the appalling waste and the fluctuating prices.

The overproducing of oil and the developing of new markets caused the price of oil to fluctuate wildly. In 1862 a barrel (42 gallons) of oil dropped in value from $4.00 to 35 cents. Later, when President Lincoln bought oil to fight the Civil War, the price jumped back to $4.00, then to $13.75. A blacksmith took $200 worth of drilling equipment and drilled a well worth $100,000. Others, with better drills and richer holes, dug four wells worth $200,000. Along side the new millionaires of the moment were the thousands of fortune hunters who came from all over to lease land and kick down shafts into it with cheap foot drills. Most failed. Even Colonel Drake died in poverty. As J. W. Trowbridge wrote, "Almost everybody you meet has been suddenly enriched or suddenly ruined (perhaps both within a short space of time), or knows plenty of people who have."

Those few who struck oil often wasted more than they sold. Thousands of barrels of oil poured into Oil Creek, not into tanks. Local creek bottoms were often flooded with runaway oil; the Allegheny River smelled of oil and glistened with it for many miles toward Pittsburgh. Gushers of wasted oil were bad enough; sometimes a careless smoker would turn a spouting well into a killing inferno. Other wasters would torpedo holes with nitroglycerine, sometimes losing the oil and their lives.

Rockefeller was intrigued with the future of the oil industry, but was repelled by its past. He shunned the drills and derricks and chose the refining end instead. Refining eventually became very costly, but in the 1860s the main supplies were only barrels, a trough, a tank, and a still in which to boil the oil. The yield would usually be about 60 per cent kerosene, 10 per cent gasoline, 5 to 10 per cent benzol or naphtha, with the rest being tar and wastes.

High prices and dreams of quick riches brought many into refining, and this attracted

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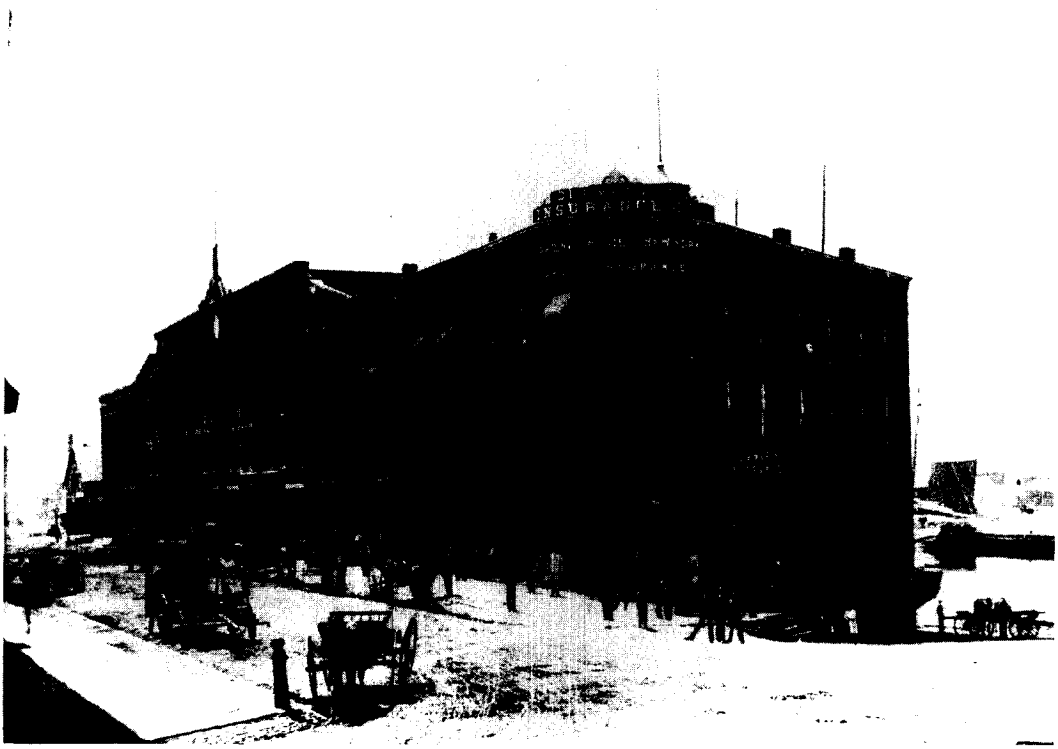

COURTESY OF ROCKEFELLER ARCHIVE CENTER

The Sexton Building in Cleveland, home of Rockefeller and Andrews, 1865-1867.

Rockefeller, too. But right from the start, he believed that the path to success was to cut waste and produce the best product at the lowest price. Sam Andrews, his partner, worked on getting more kerosene per barrel of crude. Both men searched for uses for the by-products: they used the gasoline for fuel, some of the tars for paving, and shipped the naphtha to gas plants. They also sold lubricating oil, vaseline, and paraffin for making candles. Other Cleveland refiners, by contrast, were wasteful: they dumped their gasoline into the Cuyahoga River, they threw out other by-products, and they spilled oil throughout the city.

In Search of Ways to Save

Rockefeller was constantly looking for ways to save. For example, he built his refineries well and bought no insurance. He also employed his own plumber and almost halved the cost of labor, pipes, and plumbing materials. Coopers charged $2.50 per barrel; Rockefeller cut this to $.96 when he bought his own tracts of white oak timber, his own kilns to dry the wood, and his own wagons and horses to haul it to Cleveland. There with machines he made the barrels, then hooped them, glued them, and painted them blue. Rockefeller and Andrews soon became the largest refiners in Cleveland. In 1870, they reorganized with Rockefeller's brother William, and Henry Flagler, the son of a Presbyterian minister. They renamed their enterprise Standard Oil.

Under Rockefeller's leadership, they plowed the profits into bigger and better equipment. As their volume increased, they hired chemists and developed 300 by-products from each barrel of oil. These ranged from paint and varnish to dozens of lubricating oils to anesthetics. As for the main product, kerosene, Rockefeller made it so cheaply that whale oil, coal oil, and, for a while, electricity lost out in the race to light American homes, factories, and streets. "We had vision," Rockefeller later said. "We saw the vast possibilities of the oil industry, stood at the center of it, and brought our knowledge and imagination and business experience to bear in a dozen, in twenty, in thirty directions."

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Another area of savings came from rebates from railroads. The major eastern railroads—the New York Central, the Erie, and the Pennsylvania—all wanted to ship oil and were willing to give discounts, or rebates, to large shippers. These rebates were customary and dated back to the first shipments of oil. As the largest oil refiner in America, Rockefeller was in a good position to save money for himself and for the railroad as well. He promised to ship 60 carloads of oil daily and provide all the loading and unloading services. All the railroads had to do was to ship it east. Commodore Vanderbilt of the New York Central was delighted to give Rockefeller the largest rebate he gave any shipper for the chance to have the most regular, quick, and efficient deliveries. When smaller oil men screamed about rate discrimination, Vanderbilt's spokesmen gladly promised the same rebate to anyone else who would give him the same volume of business. Since no other refiner was as efficient as Rockefeller, no one else got Standard Oil's discount.

Many of Rockefeller's competitors condemned him for receiving such large rebates. But Rockefeller never would have gotten them had he not been the largest shipper of oil. These rebates, on top of his remarkable efficiency, meant that most refiners could not compete. From 1865 to 1870, the price of kerosene dropped from 58 to 26 cents per gallon.

Rockefeller made profits during every one of these years, but most of Cleveland's refiners disappeared. Naturally, there were hard feelings. Henry Demarest Lloyd, whose cousin was an unhappy oil man, wrote *Wealth Against Commonwealth* in 1894 to denounce Rockefeller. Ida Tarbell, whose father was a Pennsylvania oil producer, attacked Rockefeller in a series of articles for *McClure's* magazine.

A Boon for Consumers

Some of the oil producers were unhappy, but American consumers were pleased that Rockefeller was selling cheap oil. Before 1870, only the rich could afford whale oil and candles. The rest had to go to bed early to save money. By the 1870s, with the drop in the price of kerosene, middle and working class people all over the nation could afford the one cent an hour that it cost to light their homes at night. Working and reading became after-dark activities new to most Americans in the 1870s.

Rockefeller quickly learned that he couldn't please everyone by making cheap oil. He pleased no one, though, when he briefly turned to political entrepreneurship in 1872. He joined a pool called the South Improvement Company and it turned out to be one of the biggest mistakes in his life.

The scheme was hatched by Tom Scott of the Pennsylvania Railroad. Scott was nervous about low oil prices and falling railroad rates. He thought that if the large refiners and railroads got together they could artificially fix high prices for themselves. Rockefeller decided to join because he would get not only large rebates, but also drawbacks, which were discounts on that oil which his competitors, not he, shipped. The small producers and refiners bitterly attacked Rockefeller and forced the Pennsylvania Legislature to revoke the charter of the South Improvement Company. No oil was ever shipped under this pool, but Rockefeller got bad publicity from it and later admitted that he had been wrong.

At first, the idea of a pool appealed to Rockefeller because it might stop the glut, the waste, the inefficiency, and the fluctuating prices of oil. The South Improvement Company showed him that this would not work, so he turned to market entrepreneurship instead. He decided to become the biggest and best refiner in the world. First, he put his chemists to work trying to extract even more from each barrel of crude. More important, he tried to integrate Standard Oil vertically and horizontally by getting dozens of other refiners to join him. Rockefeller bought their plants and talent; he gave the owners cash or stock in Standard Oil.

From Rockefeller's standpoint, a few large vertically integrated oil companies could survive and prosper, but dozens of smaller companies could not. Improve or perish was Rockefeller's approach. "We will take your burden," Rockefeller said. "We will utilize your ability; we will give you representation; we will all unite together and build a substantial structure on the basis of cooperation." Many oil men rejected Rockefeller's offer, but dozens of others all over America sold out to Standard Oil.

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When they did, Rockefeller simply shut down the inefficient companies and used what he needed from the good ones. Officers Oliver Payne, H. H. Rogers, and President John Archbold came to Standard Oil from these merged firms.

Buying out competitors was a tricky business. Rockefeller's approach was to pay what the property was worth at the time he bought it. Outmoded equipment was worth little, but good personnel and even good will were worth a lot. Rockefeller had a tendency to be generous because he wanted the future good will of his new partners and employees. "He treated everybody fairly," concluded one oil man. "When we sold out he gave us a fair price. Some refiners tried to impose on him and when they found they could not do it, they abused him. I remember one man whose refinery was worth $6,000, or at most $8,000. His friends told him, 'Mr. Rockefeller ought to give you $100,000 for that.' Of course Mr. Rockefeller refused to pay more than the refinery was worth, and the man . . . abused Mr. Rockefeller."

Cutting Costs

Bigness was not Rockefeller's real goal. It was just a means of cutting costs. During the 1870s, the price of kerosene dropped from 26 to eight cents a gallon and Rockefeller captured about 90 per cent of the American market. This percentage remained steady for years. Rockefeller never wanted to oust all of his rivals, just the ones who were wasteful and those who tarnished the whole trade by selling defective oil. "Competitors we must have, we must have," said Rockefeller's partner Charles Pratt. "If we absorb them, be sure it will bring up another."

Just as Rockefeller reached the top, many predicted his demise. During the early 1880s, the entire oil industry was in jeopardy. The Pennsylvania oil fields were running dry and electricity was beginning to compete with lamps for lighting homes. No one knew about the oil fields out West, and few suspected that the gasoline engine would be the power source of the future. Meanwhile, the Russians had begun drilling and selling their abundant oil, and they raced to capture Standard Oil's foreign markets. Some experts predicted the imminent death of the American oil industry; even Standard Oil's loyal officers began selling some of their stock.

Rockefeller's solution to these problems was to stake the future of his company on new oil discoveries near Lima, Ohio. Drillers found oil in this Ohio-Indiana region in 1885, but they could not market it. It had a sulphur base and stank like rotten eggs. Even touching this oil meant a long, soapy bath or social ostracism. No one wanted to sell or buy it and no city even wanted it shipped there. Only Rockefeller seemed interested in it. According to Joseph Seep, chief oil buyer for Standard Oil:

> Mr. Rockefeller went on buying leases in the Lima field in spite of the coolness of the rest of the directors, until he had accumulated more than 40 million barrels of that sulphurous oil in tanks. He must have invested millions of dollars in buying and storing and holding the sour oil for two years, when everyone else thought that it was no good.

Rockefeller had hired two chemists, Herman Frasch and William Burton, to figure out how to purify the oil; he counted on them to make it usable. Rockefeller's partners were skeptical, however, and sought to stanch the flood of money invested in tanks, pipelines, and land in the Lima area. They "held up their hands in holy horror" at Rockefeller's gamble and even outvoted him at a meeting of Standard's Board of Directors. "Very well, gentlemen," said Rockefeller. "At my own personal risk, I will put up the money to care for this product: $2 million–$3 million, if necessary." Rockefeller told what then happened:

> This ended the discussion, and we carried the Board with us and we continued to use the funds of the company in what was regarded as a very hazardous investment of money. But we persevered, and two or three of our practical men stood firmly with me and constantly occupied themselves with the chemists until at last, after millions of dollars had been expended in the tankage and buying the oil and constructing the pipelines and tank cars to draw it away to the markets where we could sell it for fuel, one of our

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> German chemists cried "Eureka!" We . . . at last found ourselves able to clarify the oil.

The "worthless" Lima oil that Rockefeller had stockpiled suddenly became valuable; Standard Oil would be able to supply cheap kerosene for years to come. Rockefeller's exploit had come none too soon: the Russians struck oil at Baku, four square miles of the deepest and richest oil land in the world. They hired European experts to help Russia conquer the oil markets of the world. In 1882, the year before Baku oil was first exported, America refined 85 per cent of the world's oil; six years later this dropped to 53 per cent. Since most of Standard's oil was exported, and since Standard accounted for 90 per cent of America's exported oil, the Baku threat had to be met.

The Baku Threat

At first glance, Standard Oil seemed certain to lose. First, the Baku oil was centralized in one small area: this made it economical to drill, refine, and ship from a single location. Second, the Baku oil was more plentiful: its average yield was over 280 barrels per well per day, compared with 4.5 barrels per day from American wells. Third, Baku oil was highly viscous: it made a better lubricant (though not necessarily a better illuminant) than oil in Pennsylvania or Ohio. Fourth, Russia was closer to European and Asian markets: Standard Oil had to bear the costs of building huge tankers and crossing the ocean with them. One independent expert estimated that Russia's costs of oil exporting were one-third to one-half of those of the United States. Finally, Russia and other countries slapped high protective tariffs on American oil; this allowed inefficient foreign drillers to compete with Standard Oil. The Austro-Hungarian empire, for example, imported over half a million barrels of American oil in 1882; but, by 1890 they were buying none. What was worse, local refiners there marketed a low-grade oil in barrels labeled "Standard Oil Company." This allowed the Austro-Hungarians to dump their cheap oil and damage Standard's reputation at the same time.

Rockefeller pulled out all stops to meet the Russian challenge. No small refinery would have had a chance; even a large vertically integrated company like Standard Oil was at a great disadvantage. Rockefeller never lost his vision, though, of conquering the oil markets of the world. First, he relied on his research team to help him out. William Burton, who helped clarify the Lima oil, invented "cracking," a method of heating oil to higher temperatures to get more use of the product out of each barrel. Engineers at Standard Oil helped by perfecting large steamship tankers, which cut down on the costs of shipping oil overseas.

Second, Rockefeller made Standard Oil even more efficient. He used less iron in making barrel hoops and less solder in sealing oil cans. In a classic move, he used the waste (culm) from coal heaps to fuel his refineries; even the sweepings from his factory he sorted through for tin shavings and solder drops.

Third, Rockefeller studied the foreign markets and learned how to beat the Russians in their part of the world. He sent Standard agents into dozens of countries to figure out how to sell oil up the Hwang Ho River in China, along the North Road in India, to the east coast of Sumatra, and to the huts of tribal chieftains in Malaya. He even used spies, often foreign diplomats, to help him sell oil and tell him what the Russians were doing. He used different strategies in different areas. Europeans, for example, wanted to buy kerosene only in small quantities, so Rockefeller supplied tank wagons to sell them oil street by street. As Allan Nevins notes:

> The [foreign] stations were kept in the same beautiful order as in the United States. Everywhere the steel storage tanks, as in America, were protected from fire by proper spacing and excellent fire-fighting apparatus. Everywhere the familiar blue barrels were of the best quality. Everywhere a meticulous neatness was evident. Pumps, buckets, and tools were all clean and under constant inspection, no litter being tolerated. . . . The oil itself was of the best quality. Nothing was left undone, in accordance with Rockefeller's long-standing policy, to make the Standard products and Standard ministrations, abroad as at home, attractive to the customer.

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Rockefeller's focus on quality meant that, in an evenly balanced price war with Russia, Standard Oil would win.

The Russian-American oil war was hotly contested for almost 30 years after 1885. In most markets, Standard's known reliability would prevail, if it could just get its price close to that of the Russians. In some years this meant that Rockefeller had to sell oil for 5.2 cents a gallon—leaving almost no profit margin—if he hoped to win the world. This he did; and Standard often captured two-thirds of the world's oil trade from 1882 to 1891 and a somewhat smaller portion in the decade after this.

Rockefeller and his partners always knew that their victory was a narrow triumph of efficiency over superior natural advantages. "If," as John Archbold said in 1899, "there had been as prompt and energetic action on the part of the Russian oil industry as was taken by the Standard Oil Company, the Russians would have dominated many of the world markets. . . ."

At one level, Standard's ability to sell oil at close to a nickel a gallon meant hundreds of thousands of jobs for Americans in general and Standard Oil in particular. Rockefeller's margin of victory in this competition was always narrow. Even a rise of one cent a gallon would have cost Rockefeller much of his foreign market. A rise of three cents a gallon would have cost Rockefeller his American markets as well.

At another level, oil at little more than a nickel a gallon opened new possibilities for people around the world. William H. Libby, Standard's foreign agent, saw this change and marveled at it. To the governor general of India he said:

> I may claim for petroleum that it is something of a civilizer, as promoting among the poorest classes of these countries a host of evening occupations, industrial, educational, and recreative, not feasible prior to its introduction; and if it has brought a fair reward to the capital ventured in its development, it has also carried more cheap comfort into more poor homes than almost any discovery of modern times.

In Standard Oil, Rockefeller arguably built the most successful business in American history. In running it, he showed the precision of a bookkeeper and the imagination of an entrepreneur. Yet, in day-to-day operations, he led quietly and inspired loyalty by example. Rockefeller displayed none of the tantrums of a Vanderbilt or a Hill, and none of the flamboyance of a Schwab. At board meetings, he would sit and patiently listen to all arguments. He would often say nothing until the end. But his fellow directors all testified to his genius for sorting out the relevent details and pushing the right decision, even when it was shockingly bold and unpopular. "You ask me what makes Rockefeller the unquestioned leader in our group," said John Archbold, later a president of Standard Oil. "Well, it is simple. In business we all try to look ahead as far as possible. Some of us think we are pretty able. But Rockefeller always sees a little further ahead than any of us—and then he sees around the corner."

Some of these peeks around the corner helped Rockefeller pick the right people for the right jobs. He had to delegate a great deal of responsibility, and he always gave credit—and sometimes large bonuses—for work well done. Paying higher than market wages was Rockefeller's controversial policy: he believed it helped slash costs in the long run. For example, Standard was rarely hurt by strikes or labor unrest. Also, he could recruit and keep the top talent and command their future loyalty.

"The Standard Oil Family"

Rockefeller approached the ideal of the "Standard Oil family" and tried to get each member to work for the good of the whole. As Thomas Wheeler said, "He managed somehow to get everybody interested in saving, in cutting out a detail here and there. . . ." He sometimes joined the men in their work and urged them on. At 6:30 in the morning there was Rockefeller "rolling barrels, piling hoops, and wheeling out shavings." In the oil fields, there was Rockefeller trying to fit nine barrels on a eight-barrel wagon. He came to know the oil business inside out and won the respect of his workers. Praise he would give; rebukes he would avoid. "Very well kept—very indeed,"

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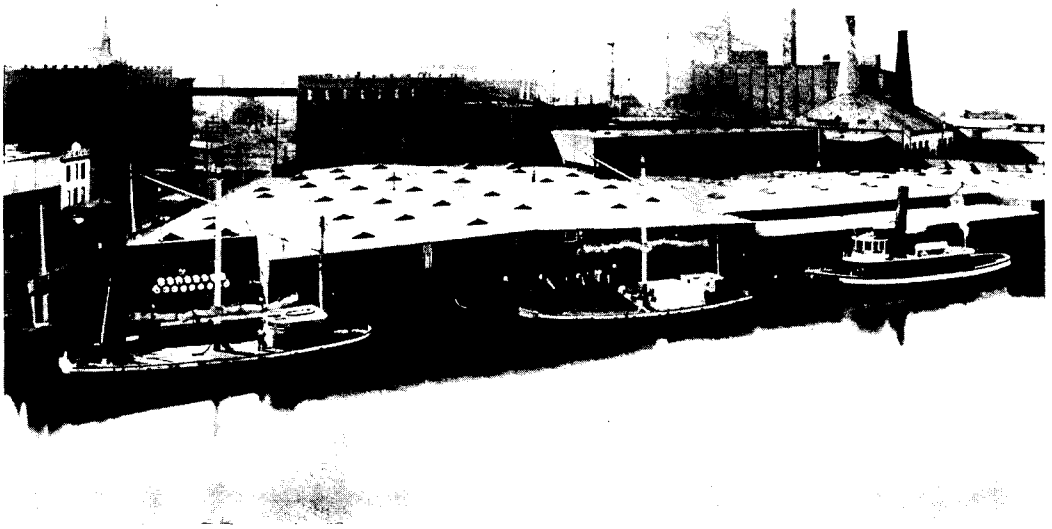

COURTESY OF THE ROCKEFELLER ARCHIVE CENTER

Devoe's Brilliant Oil Works, Long Island City, New York, where the "drop of solder" was saved.

said Rockefeller to an accountant about his books before pointing out a minor error and leaving. One time a new accountant moved into a room where Rockefeller kept an exercise machine. Not knowing what Rockefeller looked like, the accountant saw him and ordered him to remove it. "All right," said Rockefeller, and he politely took it away. Later, when the embarrassed accountant found out whom he had chided, he expected to be fired; but Rockefeller never mentioned it.

Rockefeller treated his top managers as conquering heroes and gave them praise, rest, and comfort. He knew that good ideas were almost priceless: they were the foundation for the future of Standard Oil. To one of his oil buyers, Rockefeller wrote, "I trust you will not worry about the business. Your health is more important to you and to us than the business." Long vacations at full pay were Rockefeller's antidotes for his weary leaders. After Johnson N. Camden consolidated the West Virginia and Maryland refineries for Standard Oil, Rockefeller said, "Please feel at perfect liberty to break away three, six, nine, twelve, fifteen months, more or less. . . . Your salary will not cease, however long you decide to remain away from business." But neither Camden nor the others rested long. They were too anxious to succeed in what they were doing and to please the leader who trusted them so. Thomas Wheeler, an oil buyer for Rockefeller said, "I have never heard of his equal in getting together a lot of the very best men in one team and inspiring each man to do his best for the enterprise."

Praise from Others

Not just Rockefeller's managers, but his fellow entrepreneurs thought he was remarkable. In 1873, the prescient Commodore Vanderbilt said, "That Rockefeller! He will be the richest man in the country." Twenty years later, Charles Schwab learned of Rockefeller's versatility when Rockefeller invested almost $40 million in the controversial ore of the Mesabi iron range near the Great Lakes. Schwab said, "Our experts in the Carnegie Company did not believe in the Mesabi ore fields. They thought the ore was poor. . . . They ridiculed Rockefeller's investments in the Mesabi." But by 1901, Carnegie, Schwab, and J. P. Morgan had changed their minds and offered Rockefeller almost $90 million for his ore investments.

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As I study wealthy men, I can see but one way in which they can secure a real equivalent for money spent, and that is to cultivate a taste for giving when the money will produce an effect which will be a lasting gratification.

—John D. Rockefeller

That Rockefeller was a genius is widely admitted. What is puzzling is his philosophy of life. He was a practicing Christian and believed in doing what the Bible said to do. Therefore, he organized his life in the following way: he put God first, his family second, and career third. This is the puzzle: how could someone put his career third and wind up with $900 million, which made him the wealthiest man in American history. This is not something that can be easily explained (at least not by conventional historical methods), but it can be studied.

"Spiritual Food"

Rockefeller always said that the best things he had done in life were to make Jesus his Saviour and to make Laura Spelman his wife. He prayed daily the first thing in the morning and went to church for prayer meetings with his family at least twice a week. He often said he felt most at home in church and in regular need of "spiritual food"; he and his wife also taught Bible classes and had ministers and evangelists regularly in their home.

Going to church, of course, is not necessarily a sign of a practicing Christian. Ivan the Terrible regularly prayed and went to church before and after torturing and killing his fellowmen. Even Commodore Vanderbilt sang hymns out of one side of his mouth and out of the other spewed a stream of obscenities.

Rockefeller, by contrast, read the Bible and tried to practice its teachings in his everyday life. Therefore, he tithed, rested on the Sabbath, and gave valuable time to his family. This made his life hard to understand for his fellow businessmen. But it explains why he sometimes gave tens of thousands of dollars to Christian groups, while at the same time, he was trying to borrow over a million dollars to expand his business. It explains why he rested on Sunday, even as the Russians were mobilizing to knock him out of European markets. It explains why he calmly rocked his daughter to sleep at night, even though oil prices may have dropped to an all-time low that day. Others panicked, but Rockefeller believed that God would pull him through if only he would follow His commandments. He worked to the best of his ability, then turned his problems over to God and tried not to worry. This is what he often said:

> Early I learned to work and to play.
> I dropped the worry on the way.
> God was good to me every day.

Those who heard him say this may have thought he was mouthing platitudes, but the key to understanding Rockefeller is to recognize that he said it because he believed it.

When the Russians sold their oil in Standard's blue barrels, Rockefeller did not get into strife. He knew that the book of James said, "For where envying and strife is, there is confusion and every evil work." He fought the Russians, using his spies and his authority to stop them and outsell them; but he never slandered them or threatened them. No matter what, Rockefeller never lost his temper, either. This was one of the remarkable findings of Allan Nevins in his meticulous research on Rockefeller. During the 1930s, Nevins interviewed dozens of people who worked with Rockefeller and knew him intimately. Not one —son, daughter, friend, or foe—could ever recall Rockefeller losing his temper or even being perturbed. He was always calm.

The most famous example is the time Judge K. M. Landis fined Standard Oil of Indiana over $29 million. The charge was taking rebates; and Landis, an advocate of government intervention, publicly read the verdict of "guilty" for Standard Oil. *Railway World* was shocked that "Standard Oil Company of Indiana was fined an amount equal to seven or

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eight times the value of its entire property because its traffic department did not verify the statement of the Alton rate clerk that the six-cent commodity rate on oil had been properly filed with the Interstate Commerce Commission." The *New York Times* called this decision a bad law and "a manifestation of that spirit of vindictive savagery toward corporations. . . ." But Rockefeller, who had testified at the trial, was unruffled.

On the day of the verdict, he chose to play golf with friends. In the middle of their game, a frantic messenger came running through the fairways to deliver the bad news to Rockefeller. He calmly looked at the telegram, put it away, and said, "Well, shall we go on, gentlemen?" Then he hit his ball a convincing 160 yards. At the next hole, someone sheepishly asked Rockefeller, "How much is it?" Rockefeller said, "Twenty-nine million two hundred forty thousand dollars," and added, "the maximum penalty, I believe. Will you gentlemen drive?" He ended the nine holes with a respectable score of 53, as though he hadn't a care in the world.

Landis's decision was eventually overruled, but Rockefeller was not so lucky in his fight against the Sherman Antitrust Act. Rockefeller had set up a trust system at Standard Oil merely to allow his many oil businesses in different states to be headed by the same board of directors. Some states, like Pennsylvania, had laws permitting it to tax all of the property of any corporation located within state borders. Under these conditions, Rockefeller found it convenient to establish separate Standard Oil corporations in many different states, but have them directed in harmony, or in trust, by the same group of men. The Supreme Court struck this system down in 1911 and forced Standard Oil to break up into separate state companies with separate boards of directors.

This decision was puzzling to Rockefeller and his supporters. The Sherman Act was supposed to prevent monopolies and those companies "in restraint of trade." Yet Standard Oil had no monopoly and certainly was not restraining trade. The Russians, with the help of their government, had been gaining ground on Standard in the international oil trade. In America, competition in the oil industry was more intense than ever. Over 100 oil companies—from Gulf Oil in Texas to Associated Oil in California—competed with Standard. Standard's share of the United States and world markets had been steadily declining from 1900 to 1910. Rockefeller, however, took the decision calmly and promised to obey it.

Even more remarkable than Rockefeller's serenity was his diligence in tithing. From the time of his first job, where he earned 50 cents a day, the 16-year old Rockefeller gave to his local Baptist church, to missions in New York City and abroad, and to the poor—black or white. As his salary increased, so did his giving. By the time he was 45 he was up to $100,000 per year; at age 53, he topped the $1,000,000 mark in his annual giving. His eightieth year was his most generous: $138,000,000 he happily gave away.

The more he earned the more he gave, and the more he gave the more he earned. To Rockefeller, it was the true fulfillment of the Biblical law: "Give, and it shall be given unto you; good measure, pressed down, and shaken together, and running over, shall men give into your bosom." Not "money" itself but "the love of money" was "the root of all evil." And Rockefeller loved God much more than his money. He learned what the prophet Malachi meant when he said, "Bring the whole tithe into the storehouse . . . and see if I will not throw open the floodgates of heaven and pour out so much blessing that you will not have room enough for it." He learned what Jesus meant when he said, "With the measure you use, it will be measured to you." So when Rockefeller proclaimed: "God gave me my money," he did so in humility and in awe of the way he believed God worked.

Some historians haven't liked the way Rockefeller made his money, but few have quibbled with the way he spent it. Before he died, he had given away about $550,000,000, more than any other American before him had ever possessed. It wasn't so much the amount that he gave as it was the amazing results that his giving produced. At one level he built schools and churches and supported evangelists and missionaries all over the world. After all, Jesus said, "Go ye into all the world, and preach the gospel to every creature."

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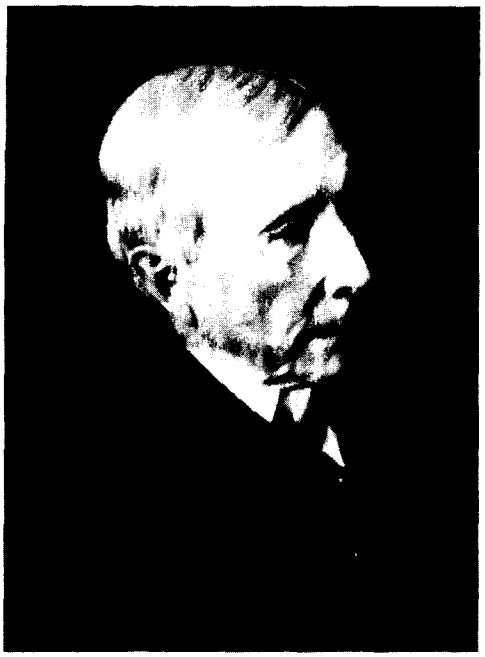

Courtesy Library of Congress

John D. Rockefeller
1839-1937

Healing the sick and feeding the poor was also part of Rockefeller's Christian mission. Not state aid, but Rockefeller philanthropy, paid teams of scientists who found cures for yellow fever, meningitis, and hookworm. The boll weevil was also a Rockefeller target, and the aid he gave in fighting it improved farming throughout the South.

Seeking Solutions to Social and Medical Problems

Rockefeller attacked social and medical problems the same way he competed against the Russians—with efficiency and innovation. To get both of these, Rockefeller gave scores of millions of dollars to higher education. The University of Chicago alone got over $35,000,000. Black schools, Southern schools, and Baptist schools also reaped what Rockefeller had sown. His guide for giving was a variation of the Biblical principle—"If any would not work, neither should he eat." Those schools, cities, or scientists who weren't anxious to produce or improve didn't get Rockefeller money. Those who did and showed results got more. As in the parable of the talents, to him who has, more (responsibility and trust) shall be given by the Rockefeller Foundation.

At about the age of 60, Rockefeller began to wind down his remarkable business career to focus more on philanthropy, his family, and leisure. He took up gardening, started riding more on his horses, and began playing golf. Yale University might ban the tango, but Rockefeller hired an instructor to teach him how to do it. Even in recreation, Rockefeller wanted to discipline his actions for the best result. In golf, he hired a caddy to say "Hold your head down," before each of his swings. He even strapped his left foot down with croquet wickets to keep it steady during his drives.

In a way, Rockefeller's life was a paradox. He was fascinated with human nature and enjoyed studying people. Yet his unparalleled success in business made friendships awkward and forced him to shut out much of the world. To his children Rockefeller was the man who played blind man's buff with great gusto, balanced dinner plates on his nose, and taught them how to swim and to ride bicycles. But from the world he had to keep his distance: he was a target for fortune hunters, fawners, chiselers, and mountebank preachers. Hundreds of hard-luck letters were written to him each week.

Retirement, however, liberated him more to enjoy people and nature. On his estate in New York, he studied plants and flowers. Sometimes he would drive out into the countryside just to admire a wheat field. Down in Florida, he liked to watch all the people who passed his house and guess at what they did in life. He handed out dimes to neighborhood children and urged them to work and to save.

Naturally, Rockefeller had some disappointments in his last years. He was sad that Standard Oil had been broken up by the Sherman Act and that the Russians had increased their foreign oil sales. He also was saddened by the Great Depression of the 1930s. Still, Rockefeller knew he had lived a full life and had been a key part of the two big transformations in the oil industry: the making of kerosene for lighting homes and the making of gasoline for running cars. Rockefeller loved life and wanted to live to be one-hundred, but he died in his sleep during his ninety-eighth year in 1937. □

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A REVIEWER'S
NOTEBOOK

The Myth of the Common School

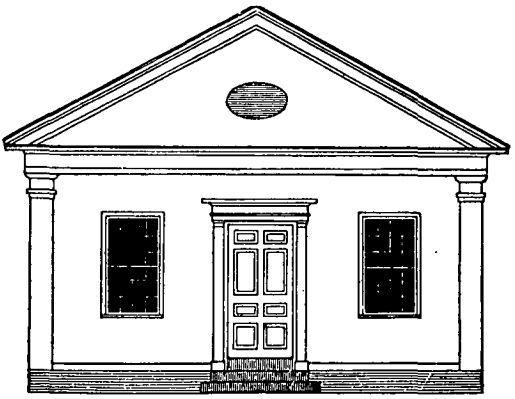
by John Chamberlain

Charles Leslie Glenn, Jr., in his *The Myth of the Common School* (The University of Massachusetts Press, Amherst, Massachusetts, 369 pp., $37.50 cloth, $13.95 paper), does not use the word "myth" in its ordinary sense as implying something that is untrue. He uses it as a synonym for "idea."

The "common," or State-funded, school does not have a hoary ancestry. It is a product more or less of nineteenth-century thinking. Before the French Revolution, private church-connected schools were the norm in most of the Western world.

It was in Jacobin France in the 1790s that the idea that children belonged to the State found its first acceptance. Rousseau preached that doctrine. Education in Rousseau's thinking should be devoted not only to reading, writing, and calculating but to teaching the child that his life should be led in accordance with the "general will." This was "hard" doctrine, and, since most teachers in revolutionary France were nuns, the Jacobins had the problem of teacher training to surmount. It remained for François Guizot, in the early days of the "liberal" regime established in 1830, to make the State school a real solid thing.

How did the idea of the common school get to the Massachusetts of Horace Mann, who, as the twelve-year secretary of the State Board of Education, made it a personal crusade to establish it as the American norm? As Mr. Glenn tells it, there was a round-aboutness to the percolation of the idea in America. In France, the development of the common school was sparked by a growing anti-clericalism, which had no appeal to a predominantly liberal Protestant United States. But in the Netherlands what Glenn describes as a "soft form" public school agenda emerged in the early Eighteen Hundreds. The two De Groots, father and son, pushed the "soft form" and defended it against both Catholics and extreme Protestants who wanted their own schools. The younger De Groot happened to be the biographer of William Ellery Channing, the Boston Unitarian minister who helped persuade Horace Mann to take on what Glenn calls the "intellectual and moral improvement" of future citizens.



District school, Monroe, Michigan, c. 1848.

Religion has been the stumbling block in the common school thinking of most Western countries. Mann evaded the block by generalizing the religion he professed to a vague goodness of heart. He visited Prussian and Dutch schools on a memorable trip to Europe in 1843 and was convinced that an American common school could be Christian without sectarian

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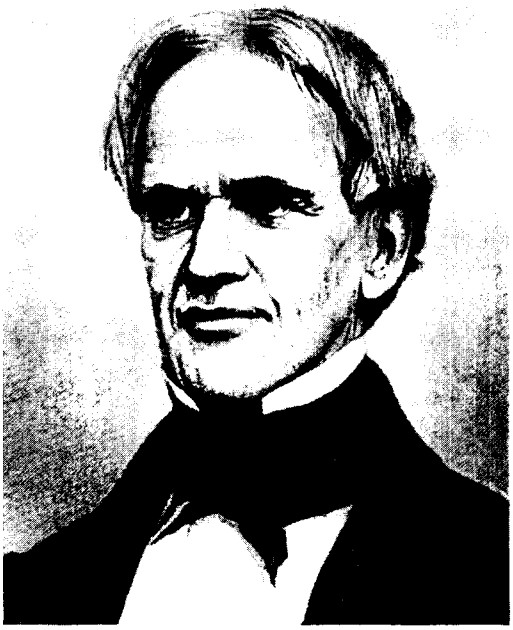

Horace Mann
1796-1859

overtones. The Bible could be read in school in a way that would let it speak for itself. Prayer need not be denominational. But religion was pretty much of a second thought with Horace Mann. He wanted his school to be a nationalist bastion, with the students carrying a common image of their country in their minds. They would read the same classics and accept the Constitution of the Founding Fathers.

Pragmatically considered, Horace Mann's common school was just the thing for Massachusetts in the mid-nineteenth century. Immigrants were pouring in from Ireland and other European countries. They could not have been Americanized by a score of sectarian church schools. Even with immigrants who understood English there were nuances that would have continued to escape them if they hadn't been compelled to attend the common school.

The time-and-place justification for the common school in Mann's Massachusetts, however, cannot be universalized. It has not stood up in the France of the Fifth Republic. In the Netherlands, despite the De Groots, parent choice is now the basic organizing principle of education. And in the United States the private school is now flourishing.

Glenn is equivocal on the subject of the "democracy" of a public school system. Obviously, there is no voluntarism to it when parents are forced to accept it and when the truant officer is part of the town payroll. In Horace Mann's day there was a broad consensus about the aims of education. "The difference," says Glenn, "is that in Horace Mann's day, the moral objectives of the school were essentially congruent with those of the public, but this is no longer the case. Mann drew upon a consensus about right and wrong, that as he often pointed out, was largely independent of the diverse religious convictions of the times. Those who rejected the public schools did so on theological grounds that, except when reinforced by a strong identification with an immigrant church, were of secondary importance. For most parents, as Tocqueville found, sectarian differences in a common Protestant Christianity were cheerfully accepted."

The consensus on the moral content of education, so Glenn says, no longer exists. But Glenn cannot bring himself to say that the public school must go. He is a pluralist, a believer in the value of diversification, and accepts the competition between public and private education as beneficial. He suggests, in a somewhat enigmatic conclusion, that stressing parents' choice should not preclude "working with the utmost care to develop a diversity of schooling that offers distinctive approaches to the common goals of our society." Then, he says, "we can rebuild broad support for public education."

This is hardly a rousing conclusion. If the common goal of Western societies is to escape from the clutches of socialism, as it should be, it is not helpful to ask that our children should become compulsory wards of the State.

Separating School and State

Leonard Read once said the separation of State and school is just as important as the separation of State and church. I remember saying to him, yes, but such separation won't come in my lifetime. One is permitted, however, to cherish some ultimate ends. One such end is that education, some day, will become a matter for universal private choice. □

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THE SUPREME COURT'S CONSTITUTION: AN INQUIRY INTO JUDICIAL REVIEW AND ITS IMPACT ON SOCIETY

by Bernard H. Siegan

Transaction Books, Rutgers University, New Brunswick, NJ 08903 • 1987 • 215 pages • $29.95 cloth, $14.95 paperback

Reviewed by Robert W. McGee

Bernard Siegan has written a number of books dealing with economic regulation and the tension between government and the individual, such as *Economic Liberties and the Constitution, Land Use Without Zoning,* and *Other People's Property,* and has edited several books on law and economics. President Reagan nominated him for a judgeship on the Ninth Circuit Court of Appeals. Libertarian Presidential candidate Ron Paul would like to nominate him to the Supreme Court.

His latest book, *The Supreme Court's Constitution,* is in the tradition of Richard Epstein and Stephen Macedo—and Thomas Jefferson, for that matter. The theme of the book is that the Supreme Court has strayed from the original intent of the Founding Fathers, and over the last 200 years has systematically usurped legislative power. Congress is supposed to make Federal laws, yet that function increasingly has been taken over by the Supreme Court.

Various Supreme Court justices, over the past 200 years, have found political rights that are not explicitly protected in the Constitution, and have denied economic rights that the Constitution is supposed to defend. Over the years, the Court has ranked political liberties above economic liberties, without recognizing that political and economic liberties are two sides of the same coin—individual liberty. The Court has consistently failed to look at the founders' original intent, and instead rendered decisions based on sociological theory, an approach that weakens the rule of law:

> . . . The Court would find it most difficult if not impossible to prove that a majority of the persons responsible for framing the relevant sections of the Constitution provided authority for major rulings the Court has imposed. A great many in the society have been affected both favorably and unfavorably; rights and powers have been created for some and denied or withdrawn from others, depending on the composition of a majority of the Court at a particular time. Such practices erode the rule of law, at the root of constitutional government.

The book is not easy reading, not because Siegan's style is unclear, but because of the nature of the subject. It is difficult to write about complex constitutional theory in terms that a nonprofessional can understand. But Siegan does a good job of stating his case without watering down the content of what he is saying. The book is scholarly and nonpolemical. In fact, in some cases it is difficult to determine what Siegan's position is because of the historical approach he takes. One chapter was partly taken from one of his law review articles. Each of the eight substantive chapters contains between 30 and 160 footnotes. Readers who want to delve deeper into one of Siegan's topics can use these footnotes to advantage. The index is also quite good for those who want to find quickly what he has to say on a particular subject.

Of the many constitutional topics that could be analyzed, Siegan chooses eight as representative of how the Court has strayed from the Founding Fathers' original intent: federalism, implied powers, and the necessary and proper clause; paper money and legal tender; economic and property rights; classification on the basis of race; the establishment of religion clause; gender; abortion and sexual privacy; and the first amendment and libel. In each case, he establishes the founders' original intent, and shows how each area has evolved over the last two centuries. In many cases, original intent has been ignored by the Court. A number of times, the Court's view on a particular topic has reversed 180 degrees as the Court's membership changed, a development which is disturbing to those who think society should be guided by the rule of law and not the rule of men.

The chapter on federalism, implied powers, and the necessary and proper clause discusses

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what went on at the Constitutional Convention and the effect Hamilton and Madison had on the final wording of the Constitution. Some early court decisions also are discussed, most notably the constitutionality of establishing a national bank. The chapter on paper money and legal tender outlines the founders' position on paper money (they were against it) and how a series of decisions expanded the federal government's authority to issue paper currency in whatever quantities it saw fit. The result is that the federal government can cause the very inflation the founding fathers sought to avoid.

Siegan says that the Court has relegated economic liberty to a position of low priority over the last four decades, but I would posit that economic liberties were accorded second place status much earlier than that. Any cut-off date, of course, is arbitrary. The Court now presumes that a law restricting economic liberty is constitutional, and it is the aggrieved party's burden to overcome that presumption. Siegan reviews some of the more prominent cases in the area of economic regulation.

The Civil Rights Acts have been interpreted over the years to mean something very different from what the drafters intended. The equal protection clause of the 14th Amendment has been twisted and turned in so many directions that it now means whatever any five Supreme Court justices say it means. A wall has been constructed by the Court separating church from State, although there is no evidence to suggest that the founders intended any such wall to be erected. The Court has become legislator in gender cases, especially since 1971. Abortion cases were decided on the basis of the individual justices' personal views, and legal theories were found to support those views rather than to form them. Since 1964, the Court has tended to decide libel and First Amendment cases on a sociological basis rather than attempting to determine the intent of the framers.

Siegan shows a consistent pattern in eight constitutional areas which makes it easy for the reader to see that failure to consider original intent has resulted in a weakening of the Constitution and the rule of law:

> . . . Justice demands the rule of law and not of individuals. By comparision, those who refuse to be bound "by the hand of the past" confront the troublesome question of how much discretion courts should have in departing from the document's original meaning. Because no absolute answer to this question exists, omitting the restraint of strict construction accords immense authority to five of nine people who, at any one time, happen to occupy the highest judicial seats of power. They would then have unlimited power to define contemporary values and concerns, an exercise that is highly subjective. □

(*Professor McGee holds a law degree and teaches accounting at Seton Hall University.*)

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